United States Court of Appeals

for the Second Circuit

APPENDIX

ORIGINAL

74 1388

B
Pgs

United States Court of Appeals

For the Second Circuit.

THE UNITED STATES OF AMERICA,

Appellee,

-against-

CHARLES BUSIGO-CIFRE and CIRILLO FIGUEROA,

Defendants-Appellants.

On Appeal From The United States District Court For The Southern District Of New York

---

DEFENDANTS-APPELLANTS' APPENDIX



HERMENA PERLMUTTER
Attorney for Defendants-Appellants
288 Broadway
New York, N.Y.
212-964-3465

Dick Bailey Printers • P.O. Box X, Staten Island, N.Y. 10302 • Tel.: (212) 447-5358

PAGINATION AS IN ORIGINAL COPY

TABLE OF CONTENTS

	Page
Docket Entries	1
Indictment	11
Order	27
Judgment	28
Excerpts From Transcript of Testimony	A1
Miguel Rodriguez, for Government, direct	A1
Manuel Noa, for Government, direct	A60
Roberto Arenas, for Government, direct	A71
Ramiro Gonzalez Infante, for Government, direct	A85
Motions	A153
Luis A. Busigo-Cifre, for Defendant, direct	A160-a
Charge	A161
Verdict	A221

DOCKET ENTRIES

D. C. Form No. 100

CRIMINAL DOCKET

JUDGE METZNER 74 CRIM. 18

TITLE OF CASE	ATTORNEYS
THE UNITED STATES vs. (See back for names of defts.)	For U.S.: Shirah Neiman, AUSA 264-6419 For Defendant:

ABSTRACT OF COSTS	AMOUNT
7[illegible]5	
Clerk, T.S.I: 3-7-11-21	
Marshal,	
Attorney,	
[illegible] T. 21,26	
[illegible] 173,4;4701,4237	
Dft.to import & receive& buy	
notics in viol. of Fed. Narcotic	
of the U.S.(Ct.1) Receipt & purchase	
profit(Cts.2-17)	

CASH RECEIVED AND DISBURSED

DATE	NAME	RECEIVED	DISBURSED
3/27/74	Reed	5 -	
3/27/74	Feuerstein	1 -	
3/27/74	Treas		10 -
3/27/74	Jones	1 -	
3/27/74	Treas		5 -

(Seventeen Counts)

DATE	PROCEEDINGS
-74	Filed indictment. (Related to 73Cr950 assigned to Metzner,J.)

Fees Paid Treas

DATE	PROCEEDINGS	CLERK'S FEES PLAINTIFF	DEFENDANT
1	RAUL ORTEGA-ALVAREZ,a/k/a Raul Ortega-Cts.1,2,3		
2	CIRO RODRIGUEZ-CALANA,a/k/a Ciro A. Calana,a/k/a Ciro Rodriguez-1&2		
3	FRANCISCA ORTEGA-RODRIGUEZ, a/k/a Francisca Rodriguez,a/k/a Paca-Ct.1		
4	LUIS REYES-PADRON,a/k/a Luis Reyes-1&3		
5	JORGE INFIESTA, a/k/a Hueso,a/k/a George-1&3		
6	JOAQUIN R. PRADA,a/k/aEl Gardego,a/k/a El Gallego-1&12		
7	HECTOR ECHEVARRIA,a/k/aLiborio Morales,a/k/a Hector Arnold Echevarria-Ri		
8	CHARLES BUSIGO-CIFRE,a/k/a Charley Busigo,Charley Cifre a/k/aCifire-1&5		
9	DOMINGO DEL CRISTO-1&6		
10	ARMANDO GARCIA-ALVAREZ,a/k/a Armando Garcia,a/k/a Armando Alavarez, a/k/aAndres Alvarez,a/k/aJoaquin Gonzalez,a/k/a El Chino-1&8		
11	JOHN DOE,a/k/a Hugo El Americano,a/k/a Hugo Contero Viera, a/k/a Hugo Viera-1&9		
12	JOSE LUIS SARRIA,a/k/aPepito,a/k/a Pepe,a/k/a Carlos Hernandez-1&10		
13	JOHN DOE,a/k/a Roberto-1		
14	JOSE OTERO,a/k/a Pepe-1&14		
15	FRANCISCO ORLANDO PEREZ,a/k/aFrancisco Perez,a/k/a Paco a/k/a Jose-1&7		
16	ORLANDO GIL,a/k/aJoaquin Gil,a/k/a Joaquin Orlando Gil yMontero, a/k/a Luis Francisco Gil-1&7		
17	Cirillo Figueroa,a/k/a Lazarito,a/k/a Lazaro,El Guajiro-1&11		
18	RIGOBERTO ROSAL-RODRIGUEZ,a/k/a Blaco Serra,a/k/a Blanquito Serra, a/k/a rigo,a/k/a Rigo Rosal,a/k/a Roberto-1&13		
19	JOSE RAMIREZ-RAMOS,a/k/a Jose Ramirez,a/k/a Chevas-1&15		
20	JOHN DOE,a/k/a Roberto Lopez-1&16		
21	JOSE ANGEL AGUILERA,a/k/a Jose Alberto Aguilera,a/k/aEl Moro, a/k/a Mauro,a/k/a Moscoso-1&17		
22	CARLOS TAPANES,a/k/a Charlie-Ct.1		

RAUL ORTEGA ALVAREZ et al. 74 Cr. 18

PAGE THREE

DATE	PROCEEDINGS
Jan.15-74	ECHEVARRIA - (atty present) and interpreter appearing on a writ, pleads not guilty. also was included a bail application which is denied. Writ adjourned to 2/20/ Deft. remanded.-- Metzner, J.
Jan.25-74	Filed one sealed envelope. Enclosed is an affdt. which was submitted by the govt. pursuant to the court's direction that it explain why it would not divulge the names of witnesses. The court has read the affdt. and finds it sufficient to support the govts. position. This affdt. shall be sealed and delivered to the Clerk of the Court and not opened until further order of the court. So ordered. Metzner, J. (cashier,rm.602).
Jan.28-74	Filed Affidavit in Opposition to Deft's. Motions.
Jan.28-74	Filed Govt. Bill of Particulars
Jan.30-74	Filed ..davit for W/H/C Ad Pros. (CIRILLO FIGUEROA)
Jan.30-74	OTERO - Filed Affidavit for W/H/C AD PROS.
Jan.30-74	HECTOR ECHEVERRIA - Filed CJA 21 Authorization for Interpreter, original mailed AO Wash. D. C. - Metzner, J.
Jan.30-74	HECTOR ECHEVERRIA - Filed CJA 21 Approval of payment to Gerardo Sanchez, Interpreter.
Feb.1-74	ECHEVARRIA - Filed CJA 20 Appointment of Robert Mitchell, 51 Chambers T.,N.Y.10007 (original mailed to AO Wash.D.C.)
Feb.1-74	ECHEVERRIA - Filed CJA 21 Authorization for Interpreter - Gerardo Sanchez -- (original mailed to A.O.Wash.D.C.) - Metzner,J.
Feb.6-74	ECHEVERRIA - Filed CJA 21 approving payment of interpreter - Metzner, J.
Jan.22-74	Motion to dismiss as to Carlos Tapanes is granted. - Metzner, J.
Feb.8-74	ECHEVERRIA - Filed CJA 21 Filed Authorization for Interpreter - Metzner, J.
Feb.8-74	ECHEVERRIA - Filed CJA 21 Authorization approving payment of interpreter Gerardo Sanchez, 717 W. 177 St., N.Y. (original mailed to AO Wash.D.C.)
Feb.15-74	CHARLES BUSIGO CIFRE - Second Offender Information Filed
Feb.15-74	DOMINGO DEL CRISTO - Filed Second Offender Information
Feb.19-74	HECTOR ECHEVERRIA - Filed Motion to Request Disqualification of Trial. Motion to request change of venue, Motion requesting adjournment and or Severance.
Feb.19-74	HECTOR ECHEVERRIA - Filed CJA 21 Authorization of Interpreter - Metzner, J. Original mailed to AO Wash.D.C.)
Feb.19-74	HECTOR ECHEVERRIA - Filed Copy of CJA 21 approving payment of Interpreter Norma Seltzer, 20 E. 35th St.N.Y.
Feb.20-74	JORGE INFIESTA - Filed Notice of Appearance of John O'Connor, 2401 E. Tremont Av. Bronx, N.Y. 10461 (TA-4-7260)
Feb.20-74	DOMINGO DEL CRISTO - Filed Financial Affidavit

D C. 109 Criminal Continuation Sheet

DATE	PROCEEDINGS
Feb.19-74	ORLANDO GILL with his interpreter and atty present) signs waiver of indictment and Pleads GUILTY to an information #74Cr.180 - Plea Accepted - Metzner, J.
Feb.20-74	RAUL ORTEGA ALVAREZ & HECTOR ECHEVARRIA - through their interpreters plead Not Guilty by reason of Double Jeopardy. The remaining defendants through their interpreter plead NOT GUILTY. The following pleaded NOT GUILTY CIRO RODRIGUEZ CALANA FRANCISCA ORTEGA RODRIGUEZ JORGE INFIESTA CHARLES BUSICO-CIFRE DOMINGO DEL CRISTO ARMANDO ALVAREZ ELIAS HUGO VIERA(Substituted for "JOHN DOE a/k/a HUGO EL AMERICANO ETC.) JOSE OTERO CIRILLO FIGUEROA ROGOBERTO ROAL RODRIGUEZ JOSE ANGEL AGUIERA The defendant JOAQUIN R. PRADA appears in Court on a writ is severed from this indictment. Following names of interpreters GERARD SANCHEZ LENA JASLOW NELIDA HUGHS JOELLE McCALL MELVIN QUINONES The following defendants appeared in court on a WRIT CIRILLO FIGUEROA HECTOR ECHEVARRIA RIGOBERTO ROSAL RODRIGUEZ JOSE OTERO Jury empaneled and sworn
Feb.20-74	Trial Begun
Feb.22-74	RAUL ORTEGA-ALVAREZ - Courts Exhibits received, ordered sealed - Metzner, J.
Feb.25-74	HECTOR ECHEVERRIA - Filed true copy from U.S.C.A. for leave to proceed in forma pauperis to for a writ of mandamus - Anderson,Mansfield,Oakes,J.
Feb.22-74	Filed Memo-endorsed on HECTOR ECHEVERRIA'S Motion dtd 2/19/74--This motion was denied record in open court. So ordered - Metzner, J. (m/n)
Feb.25-74	JORGE INFIESTA - Filed CJA Approving payment of Counsel John Connor, 2401 E.Tremont Bronx,N.Y.-Metzner,J.
Feb.27-74	RAUL ORTEGA ALVAREZ - Filed memo-endorsed on Motion--Motion denied with leave to renew at the end of the governments case. So ordered - Metzner, J.
Feb.27-74	Filed one envelope ordered sealed by the Court,Metzner, J.
Mar.1-74	Filed Envelope Court Ordered Sealed w/Cashier--Metzner,J.
Mar.1-74	Filed Affidavit for Writ of Habeas Corpus AD Testificandum Issue.
Mar.1-74	Filed Petition for Writ of Habeas Corpus AD Testificandum to produce Nelson

74 CR 18 U.S.A. v. RAUL ORTEGA ALVAREZ ET AL METZNER,J.

DATE	PROCEEDINGS
2-20-74	Trial Severed as to JOAQUIN R. PRADA, and continued as to: RAUL ORTEGA ALVAREZ; CIRO RODRIGUEZ CALANA; FRANCISCA ORTEGA RODRIGUEZ; JORGE INFIESTA; HECTOR ECHEVARRIA; CHARLES BUSICO CIFRE; DOMINGO DEL CRISTO; ARMANDO ALVAREZ; ELIAS HUGO VIERA; JOSE OTERO; CIRILLO FIGUEROA; RIGOBERTO ROSAL RODRIGUEZ; JOSE ANGEL AGUILERA--- METZNER,J.
2-21-74	Trial continued. Gustave Hoffman (interpreter)Sworn) - Metzner, J.
2-22-74	Trial continued.
2-25-74	Trial continued. Juror #9 has been excused from any further service in this matter and alternate Juror #1 is now sworn and replaces Juror #9. - Metzner,J.
2-26-74	Trial continued. Miss Enid Pagan (interpreter) sworn. The witness MIGUEL RODRIGUEZ having been brought to Court on a writ of H/C. - Writ Satisfied- Metzner,J.
2-27-74	Trial continued. Alternate Juror #5, excused from any further service in this issue with consent of the defense counsel - Metzner, J.
2-28-74	Trial continued - Metzner,J.
2-27-74	CIRILLO FIGUEROA - Filed CJA 21 - Authorization of Transcript - Metzner,J. (original mailed to ADM.Off. Wash.D.C.)
2-27-74	JOSE ANGEL AGUILERA - Filed CJA 21 - Authorization of Transcript - Metzner,J.
2-27-74	HUGO CONTERO VIERA - Filed CJA 21 - Authorization of Payment of Transcript for Trial Metzner, J. (original mailed to AO Wash.D.C.)
2-27-74	HECTOR ECHEVARRIA - Filed CJA 21 - Authorization of Payment of Transcript for Trial Metzner, J. (original mailed to AO Wash.D.C.)
3-7-74	RODRIGUEZ,FRANCISCA & Ciro Rodriguez Calana - Filed Motion for Issuance of Subpoena Metzner,J.
3-1-74	Trial continued - Metzner, J.
3-4-74	Trial continued
3-5-74	Trial continued Emma Folmach sworn in as interpreter - Metzner, J.
3-6-74	Trial continued- Interpreter Norma Seltzer and Margarita Mensa duly sworn. Deft. RAMIRO GONZALEZ Appeared in Court on a writ. The record also show that Defts. ECHEVARRIA-RIGOBERTO ROSAL RODRIGUEZ-CIRILLO FIGUEROA and JOSE OTERO have all been appearing in Court on writs. - Metzner, J.
3-7-74	Trial continued - Interpreter Jacquline Montague - Trial adjourned to 3/11/74 - Met
3-7-74	CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA RODRIGUEZ - Filed Motion for Issuance of Subpoena
3-13-74	Filed Affidavit for Writ of Habeas Corpus ad Testificandum Issue.
3-14-74	Filed-ELIAS HUGO VIERA - MEMORANDUM OF LAW
3-14-74	Filed-DOMINGO DEL CRISTO - Motion for Judgment of Acquittal and Memorandum of Law.

DATE	PROCEEDINGS
3-14-74	RIGOBERTO ROSAL RODRIGUEZ - Filed Memorandum of Law
3-14-74	ARMANDO GARCIA ALVAREZ et al. - Filed Memorandum of Law
3-14-74	RAUL ORTEGA-ALVAREZ et al - Filed Memorandum of Law.
3-14-74	CHARLES BUSIGO CIFRE - Memorandum of Law
3-14-74	Filed Government Memorandum of Law.
3-14-74	JOSE ANGEL AGUILERA - Filed Memorandum of Law, for Judgment of Acquittal
3-14-74	HECTOR ECHEVERRIA - Filed Memorandum of Law
3-14-74	Filed Govt. Affidavit in Response Deft. Echeverria's Motion.
3-14-74	Filed CIRIDO FIGUEROA - JOSE OTERO - Filed Defts. Memorandum of Law.
3-15-74	RAUL ORTEGA ALVAREZ - Filed Deft's Requests to Charge
3-15-74	HECTOR ECHEVERRIA - Filed Motion to Requests to Charge.
3-15-74	CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA RODRIGUEZ - Filed Defts' Request to Charge.
3-15-74	ARMANDO GARCIA ALVAREZ - Requests to Charge on behalf of the Deft.
3-15-74	JOSE ANGEL AGUILERA - Filed Requests to Charge
3-15-74	" " " " Additional Requests to Charge
3-15-74	CHARLES BUSIGO CIFRE - Filed Deft's Request to Charge.
3-15-74	Filed Govt's Requests to Charge.
3-11-74	Trial Continued - Hearing on motion to suppress as to Raul Ortega Alvarez. Hearing Held - Motion denied. Trial continued - Govt. Rests - METZNER,J.
3-13-74	Motion to dismiss count Nine as to Hugho Elias Viera is granted
"	Motion to dismiss Counts ONE and THIRTEEN as to RIGOBERTO ROSAL RODRIGUEZ is granted
Mar14-74	Trial Continued - Metzner, J.
3-19-74	Filed Copy submitted from S.D.of Florida - Hearing on Plea
3-19-74	Filed copy of U.S.C.A 2nd Circuit Petition for a Writ of Mandamus and Prohibition.
3-19-74	Filed CIFRE & ALVAREZ - Govt. Memorandum of Law
3-19-74	Filed Co at. Memorandum of Law
3-19-74	Filed Govt's Proposed Examination of Prospective Jurors.
Mar.20-74	Filed one envelope sealed by order of the court.Metzner,J.

V. RAUL ORTEGA ALVAREZ ET AL — 74 CRIM 18 — METZNER, J.

DATE	PROCEEDINGS
Mar-15-74	Trial Continued
Mar-18-74	Trial continued. The Court strikes from this indictment Overt Acts #23 and #31. All summations completed - Metzner, J.
Mar.19-74	Trial continued. Jurors requestered - Metzner, J.
Mar-20-74	Trial continued - Jurors continue to deliberate. Jurors return verdict. VERDICT: RAUL ORTEGA - GUILTY on counts 1,2 & 3. Bail continued. Presentence report order Sentence April 22/1974. See minutes of proceedings as to bail conditions.
	CHARLES BUSIGO CIFRE - GUILTY on counts 1. Not guilty on Ct.5. Presentence report ordered. Sentence April 22, 1974. DEFENDANTS REMANDED
	ARMANDO ALVAREZ - GUILTY on Counts 1 & 8. Bail increased to $15,000.00 defendant has to Friday Mar.22,1974 at 12 Noon to post increased bail. Presentence report ordered. Sentence April 22, 1974. See minutes of proceedings as to Bail conditions
	JOSE OTERO - GUILTY on Counts 1 and 14. Presentence report ordered. Sentence April 22, 1974. Defendant produced in Court on a Writ.
	CIRILLO FIGUEROA - GUILTY on Counts 1 and 11. Presentence report ordered. Sentence April 22, 1974. Defendant produced in Court on a Writ.
	JORGE INFIESTA - GUILTY on counts 1 and 3. Presentence report ordered. Sentence April 22, 1974. See minutes of proceedings as to bail conditions.
	DOMINGO DEL CRISTO - GUILTY ON counts 1 and 6. Presentence report ordered Sentence April 22, 1974 - DEFENDANT REMANDED
	CIRO RODRIGUEZ CALANA - GUILTY on Counts 1 and 2. Presentence report ordered Sentence April 22, 1974 - See minutes of proceedings as to bail conditions.
	FRANCISCA RODRIGUEZ CALANA - NOT GUILTY on Count 1.
	HUGO VIERA - NOT GUILTY on Ct. 1. Defendant exonerated from bail.
	JOSE AGUILERA - NOT GUILTY on Ct. 1 and Ct.17.
	HECTOR ECHEVARRIA - NOT GUILTY Counts 1 and 4 . Defendant produced in Court on a Writ - METZNER, J.
Mar-21-74	CHARLES BUSIGO CIFRE and DOMINGO DEL CRISTO - Filed ORDER - Defts were found GUILTY and face mandatory minimum sentence of 10 yrs.as second offenders. Both Defts. remanded w/o bail pending sentence.....METZNER, J.
Mar.20-74	RAUL ORTEGA - Filed Letter dtd 3/1/74 from Morton M. Schwartzman,M.D,555 Biltmore Way, Coral Gables, Fla. 33134. (re: Children)
Mar.20-74	Filed Court Exhibit 12 Verdict as written by Jurors.
3-25-74	JOSE OTERO- Filed ORDER that the Warden in Federal House of Detention grant permission to defendant to marry NANCY M. AGUIRRE upon presentment of a du. authorized clergyman at a time permitted by institution and consented by U.S.At. METZNER, J.

D. C. 109 Criminal Continuation Sheet

'r. 18 METZNER,J.

DATE	PROCEEDINGS
3-22-74	Filed(ARMANDO ALVAREZ) Appearance Bond sum of $15,000.00
3-27-74	Filed for deft. DEL CRISTO -Affidavit and Notice of Motion for Judgment of Acquittal returnable 3/29/74 at 10AM.
3-27-74	JUAN CONTRERAS - Filed Writ of Habeas Corpus Ad Testificandum Issue.
4-12-74	Filed Government Affidavit in opposition to Raul Ortega Alvarez's motion for the conspiracy charge in Count 1 of Indt.etc.
4-16-74	Filed Transcript of record of proceedings dtd. 2/20,21,22,25,1974
4-16-74	" " " " " " " 2/26,27,28, 3/1,4,5,1974
4-16-74	" " " " " " " 3/14,15,18,19 and 20 1974
4-16-74	" M " " " " " " 3/6,7,11,12,13,1974
4 -74	JOSE RAMIREZ - Filed PRB w/o Security in the sum of $5,000 - Metzner,J.
4-17-74	RAUL ORTEGA ALVAREZ - Filed Memo-endorsed on Affidavit dtd 4/12/74 -- As indicated Court denied deft.'s motion for a directed judgment of acquittal -- No affi were submitted to support the deft's contention. Rather, reference is made in counsel's brief to the transcript of the change of plea and sentence, all of which occurred on the same day. There was nothing in this transcript that would warrant holding of an evidentiary hearing. Motion denied. So ordered - METZNER, J. (m/
4-22-74	DOMINGO DEL CRISTO - The deft. admits to the 2nd offender information - Metzner, J.
3-27-74	DOMINGO DEL CRISTO - Filed Notice of Motion fo a Judgment of Acquittal returnable 3/2
4-22-74	and Memo-endorsed -- Motion denied So ordered - METZNER,J. (m/n)
4-22-74	JOSE OTERO - Filed CJA Authorization of Joell McCall, Interperter 300 E. 40th St.,N.Y. (original mailed AO Wash.D.C.)
4-22-74	Filed CJA 21 Approving authorization on the above -- METZNER,J.
4-22-74	Filed(ORTEGA ET AL) CJA Authorization of Jacqueline Montague, 209 E. 56th St.,N.Y. (original mailed AO Wash.D.C.)
4-22-74	Filed Copy of CJA 21 Approving payment on the above -- Metzner, J.
4-22-74	Filed CJA 21 --JOSE OTERO, CIRILLO FIGUEORA --Authorization of Interprater Emma Tolm 7 Davison St.,E.Rockaway,N.Y. (original mailed to AO Wash.D.C.)
4-22-74	Filed Copy of CJA 21 on the above approving payment (METZNER,J.)
4-22-74	Filed CJA 21 for OTERO & FIGUEROA - Authorization of Interpreter - Yolanda Francesch 2041 Lafayette Av.,Bx.N.Y. (original mailed to AO Wash.D.C.
4-22-74	Filed Copy of CJA 21 on above approving payment -- Metzner,J.
4-22-74	JOSE OTERO - Filed CJA 21 Authorization of Interpreter - Joseph I. Stone,277 Bway,N.Y. (original filed AO Wash.D.C.)
4-22-74	Filed Copy of CJA 21 Approving payment on the above -- METZNER,J.
4-22-74	HECTOR ECHEVERRIA - Filed CJA 21 Authorization of Interpreter Leonardo Vidal, 6 188 St.,N.Y. (original mailed to AO Wash.D.C.)
4-22-74	Filed Copy of CJA 21 approving payment on the above - Metzner,J.

74 Cr. 18 ALVEREZ ET AL. 74 Cr. 18 METZNER,J.

DATE	PROCEEDINGS
4-22-74	CIRO RODRIGUEZ CALANA - Filed Notice of Appeal to U.S.C.A. 2nd Circuit from Judgment dated 4/22/74 as to sentence imposed. (mailed to Deft.14-1/2 Third St.- Elizabeth, N.J., U.S.Atty's Office.
4-22-74	ARMANDO ALVAREZ - Filed Notice of Appeal to U.S.C.A. 2nd Circuit from Judgt. enter on sentence imposed. mailed to Armando Alvarez 2431 SW 77 ct.Miami, Fla.,U.S.A.
4-22-74	ARMANDO ALVAREZ - Filed Personal Recognizance Bond pending appeal, sum of $50,000 Public Service Mutual Ins. Co.
4-22-74	ARMANDO ALVAREZ - Filed Personal Recognizance Bond pending appeal, sum of $75,000.
4-23-74	JORGE INFIESTA - Filed Notice of Appeal to U.S.C.A. from final Judgment 4/22/74 copies mailed to Deft. F.H.of Detention,427 W.St.,N.Y. and U.S.Atty.
4-23-74	DOMINGO DEL CRISTO - Filed Notice of Appeal to U.S.C.A from the final Judgment entered 4/22/74 - Copies mailed to Deft. Fed.House of Det. 427,W.St.,N.Y, U.S.A.
4-24-74	DOMINGO DEL CRISTO - Filed Personal Recognizance Bond pending appeal in the sum of $25,000.00 secured by $2,500.00 Cash.
4-22-74	CIRO RODRIGUEZ CALANA - Filed JUDGMENT (atty present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of SIX (6) YEARS on each counts (1) and(2) to run concurrently with each other - METZNER, J. (copies issu
4-22-74	JORGE INFIESTA - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on each of count (1) and (3) to run concurrently with each other. METZNER, J. (copies issued)
4-22-74	DOMINGO DEL CRISTO - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN (10)YEARS on each of counts (1) and (6) to run concurrently with each other - METZNER, J. (copies issued)
4-22-74	ARMANDO ALVAREZ - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on each of counts (1) and (8) to run concurrently with each other - METZNER, J. (copies issued.)
4-22-74	JOSE OTERO - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of counts (1) and (14) to run concurrently with each other, and to commence upon completion of his imprisonment under the existing sentence now serving. METZNER, J. (copies issued)
4-22-74	CIRILLO FIGUEROA - Filed JUDGMENT (atty. present) It is adjudged that the defend is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on each of counts (1) and (11) to run concurrently with each other and to commenc completion of his imprisonment under the existing sentence now served. METZNER, J. (copies issued)

D C 110 Criminal Continuation Sheet

DATE	PROCEEDINGS
4-23-74	CIRO RODRIGUEZ CAJANA - Filed Personal Recognizance Bond pending appeal in the sum of $25,000.00 secured by $3,000.
4-25-74	HECTOR ECHEVARRIA - Filed CJA 21 Authorization for Transcript from SDCourt Reporters (original mailed to AO Wash.D.C.)
4-25-74	HUGO CONTERO VIERA - Filed CJA 21 Authorization of Transcript from S.D.Court Reporte (original mailed to AO Wash.D.C.)
4-25-74	CIRILLO FIGUEROA - Filed CJA 21 Authorization of Transcript from S.D.Court Reporters (orginal mailed to AO Wash.D.C.)
4-25-74	JOSE ANGEL AGUILERA - Filed CJA 21 Authorization of Transcript from S.D.Court Repo (original mailed to AO Wash.D.C.)
4-25-74	Filed Transcript of record of proceedings dtd 2/6/74.

UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF NEW YORK

74 CRIM. 18

UNITED STATES OF AMERICA :

- v - : INDICTMENT

RAUL ORTEGA-ALVAREZ, a/k/a Raul Ortega, :
CIRO RODRIGUEZ-CALANA, a/k/a Ciro A. Calana, a/k/a Ciro Rodriguez, :
FRANCISCA ORTEGA-RODRIGUEZ, a/k/a Francisca Rodriguez, a/k/a "Paca," :
LUIS REYES-PADRON, a/k/a Luis Reyes, :
JORGE INFIESTA, a/k/a "Huesso," a/k/a "George," :
JOAQUIN R. PRADA, a/k/a "El Cardego," a/k/a "El Gallego," :
HECTOR ECHEVARRIA, a/k/a Liborio Morales, a/k/a Hector Aronld Echevarria-Rios, :
CHARLES BUSIGO-CIFRE, a/k/a Charley Cifre, a/k/a Charley Busigo, a/k/a Cifire, :
DOMINGO DEL CRISTO, :
ARMANDO GARCIA-ALVAREZ, a/k/a Armando Alvarez, a/k/a Armando Garcia, a/k/a Andres Alvarez, a/k/a Joaquin Gonzalez, a/k/a "El Chino," :
JOHN DOE, a/k/a "Hugo El Americano," a/k/a Hugo Contero Viera, a/k/a Hugo Viera, :
JOSE LUIS SARRIA, a/k/a "Pepito," a/k/a "Pepe," a/k/a Carlos Hernandez, :
JOHN DOE, a/k/a "Roberto," :
JOSE OTERO, a/k/a "Pepe," :
FRANCISCO ORLANDO PEREZ, a/k/a Francisco Perez, a/k/a "Paco," a/k/a "Jose," :
ORLANDO GIL, a/k/a Joaquin Gil, a/k/a Orlando Joaquin Gil, a/k/a Joaquin Orlando Gil y Montero, a/k/a Luis Francisco Gil, :
CIRILLO FIGUEROA, a/k/a "Lazarito," a/k/a "Lazaro," a/k/a "El Guajiro," :
RIGOBERTO ROSAL-RODRIGUEZ, a/k/a "Blanco Serra," a/k/a "Blanquito Serra," a/k/a "Rigo," a/k/a "Rigo Rosal," a/k/a "Roberto," :
JOSE RAMIREZ-RAMOS, a/k/a Jose Ramirez, a/k/a "Chevas," :
JOHN DOE, a/k/a Roberto Lopez, :
JOSE ANGEL AGUILERA, a/k/a Jose Alberto Aguilera, a/k/a "El Moro," a/k/a "Mauro," a/k/a "Moscoso," :
CARLOS TAPANES, a/k/a "Charlie," :

Defendants. :

U.S. DISTR CT COURT FILED JAN 9 1974 S.D. OF N.Y.

MICROFILM JAN 10 1974

COUNT ONE

The Grand Jury charges:

1. From on or about the first day of December, 1969, and continuously thereafter up to and including on or about

April 30, 1971, in the Southern District of New York and elsewhere,

RAUL ORTEGA-ALVAREZ, a/k/a Raul Ortega,
CIRO RODRIGUEZ-CALANA, a/k/a Ciro A. Calana, a/k/a Ciro Rodriguez,
FRANCISCA ORTEGA-RODRIGUEZ, a/k/a Francisca Rodriguez, a/k/a "Paca,"
LUIS REYES-PADRON, a/k/a Luis Reyes,
JORGE INFIESTA, a/k/a "Huesso," a/k/a "George,"
JOAQUIN R. PRADA, a/k/a "El Gardero," a/k/a "El Gallego,"
HECTOR ECHEVARRIA, a/k/a Liborio Morales, a/k/a Hector Aronld Echevarria-Rios,
CHARLES BUSIGO-CIFRE, a/k/a Charley Cifre, a/k/a Charley Busigo, a/k/a Cifire,
DOMINGO DEL CRISTO,
ARMANDO GARCIA-ALVAREZ, a/k/a Armando Alvarez, a/k/a Armando Garcia, a/k/a Andres Alvarez, a/k/a Joaquin Gonzalez, a/k/a "El Chino,"
JOHN DOE, a/k/a "Hugo El Americano," a/k/a Hugo Contero Viera, a/k/a Hugo Viera,
JOSE LUIS SARRIA, a/k/a "Pepito," a/k/a "Pepe," a/k/a Carlos Hernandez,
JOHN DOE, a/k/a "Roberto,"
JOSE OTERO, a/k/a "Pepe,"
FRANCISCO ORLANDO PEREZ, a/k/a Francisco Perez, a/k/a "Paco," a/k/a "Jose,"
ORLANDO GIL, a/k/a Joaquin Gil, a/k/a Orlando Joaquin Gil, a/k/a Joaquin Orlando Gil y Montero, a/k/a Luis Francisco Gil,
CIRILLO FIGUEROA, a/k/a "Lazarito," a/k/a "Lazaro," a/k/a "El Guajiro,"
RIGOBERTO ROSAL-RODRIGUEZ, a/k/a "Blanco Serra," a/k/a "Blanquito Serra," a/k/a "Rigo," a/k/a "Rigo Rosal," a/k/a "Roberto,"
JOSE RAMIREZ-RAMOS, a/k/a Jose Ramirez, a/k/a "Chevas,"
JOHN DOE, a/k/a Roberto Lopez,
JOSE ANGEL AGUILERA, a/k/a Jose Alberto Aguilera, a/k/a "El Moro," a/k/a "Mauro," a/k/a "Moscoso,"
CARLOS TAPANES, a/k/a "Charlie,"

the defendants, and Ramiro Gonzalez and Miguel Rodriguez, named herein as co-conspirators but not as defendants, and others to the Grand Jury known and unknown, unlawfully wilfully intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 173 and 174 of Title 21, United States Code and Sections 4701, 4703, 4704(a), 4771(a) and 7237(a) of Title 26, United States Code.

2. It was part of said conspiracy that the said defendants and co-conspirators unlawfully, wilfully and knowingly

would import and bring into the United States large quantities of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown in violation of Sections 173 and 174 of Title 21, United States Code.

3. It was further part of said conspiracy that the said defendants and co-conspirators, unlawfully, wilfully and knowingly would receive, conceal, possess, buy, sell and facilitate the transportation, concealment and sale of large quantities of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, after the said narcotic drugs had been imported and brought into the United States contrary to law, knowing that the said narcotic drugs had been imported and brought into the United States contrary to law in violation of Section 173 and 174 of Title 21, United States Code.

4. It was further part of the said conspiracy that the said defendants and co-conspirators unlawfully, wilfully and knowingly would puchase, sell, dispense and distribute a quantity of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, in that the said narcotic drugs would not be in the original stamped package or from the original stamped package, that is to say, that there would not be affixed to the container in and from which the said defendants would purchas sell, dispense and distribute the narcotic drugs as aforesaid any United States Internal Revenue Stamps as required by Section 4703 of Title 26, United States Code, in violation of Sections 4701, 4703, 4704(a), and 7237(a) of Title 26, United States Code.

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

1. In or about March, 1970, the defendant RAUL ORTEGA-ALVAREZ met with co-conspirator Ramiro Gonzalez in Miami, Florida.

2. In or about March, 1970, the defendant RAUL ORTEGA-ALVAREZ and co-conspirator Ramiro Gonzalez flew from Miami, Florida to Newark, New Jersey.

3. On or about March 12, 1970, the defendant RAUL ORTEGA-ALVAREZ registered and stayed in the Saxony Motel, 330 Atlantic Avenue, Elizabeth, New Jersey.

4. On or about March 12, 1970, the defendant RAUL ORTEGA-ALVAREZ and co-conspirator Ramiro Gonzalez met with the defendants CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA-RODRIGUEZ at 38 Rankin Street, Elizabeth, New Jersey.

5. On or about March 12, 1970, the defendants JORGE INFIESTA and LUIS REYES-PADRON received approximately one kilogram of heroin from the defendant RAUL ORTEGA-ALVAREZ in an apartment at 666 W. 162nd Street, New York, New York.

6. On or about March 13, 1970, defendant JOAQUIN R. PRADA and co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered approximately one kilogram of heroin at the C.B.C. Gas Station, 2120 Amsterdam Avenue, New York, New York.

7. On or about March 13, 1970, the defendants RAUL ORTEGA-ALVAREZ, JORGE INFIESTA and LUIS REYES-PADRON met in an apartment at 666 W. 162nd Street, New York, New York.

8. On or about March 16, 1970, the defendant RAUL ORTEGA-ALVAREZ entered Luigi's Restaurant & Bar, 4199 Broadway, New York, New York.

9. On or about March 31, 1970, the defendant CARLOS TAPANES delivered approximately one kilogram of heroin in the parking lot of the Hicksville Diner, Old Country Road and South Oyster Bay Road, Hicksville, Long Island.

10. In or about March, 1970, the defendant RAUL ORTEGA-ALVAREZ delivered approximately one kilogram of heroin to the defendant LUIS REYES-PADRON at 38 Rankin Street, Elizabeth, New Jersey.

11. In or about March or April, 1970, the defendant RAUL ORTEGA-ALVAREZ delivered approximately two kilograms of heroin to the defendants JORGE INFIESTA and LUIS REYES-PADRON in an apartment at 666 W. 162nd Street, New York, New York.

12. In or about March, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez met with the defendants FRANCISCO ORLANDO PEREZ and ORLANDO GIL.

13. On or about March 24, 1970, the defendants FRANCISCO ORLANDO PEREZ and ORLANDO GIL met at 572 W. 173rd Street, New York, New York.

14. On or about March 24, 1970 the defendant FRANCISCO ORLANDO PEREZ went to the Blue Mirror Bar, 3347 Broadway, New York, New York.

15. In or about March or April, 1970, the defendant HECTOR ECHEVARRIA received approximately 1/2 kilogram of heroin at 380 Audubon Avenue, New York, New York.

16. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez had a conversation with the defendant CHARLES BUSIGO-CIFRE in the vicinity of the C.B.C. Gas Station, 2120 Amsterdam Avenue, New York, New York.

17. In or about March or April 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered approximately 1/2 kilogram of heroin for the defendant CHARLES BUSIGO-CIFRE to John Doe in the vicinity of the C.B.C. Gas Station 2120 Amsterdam Avenue, New York, New York.

18. In or about March or April, 1970, the defendant JOAQUIN R. PRADA received a sum of cash from the defendant CHARLES BUSIGO-CIFRE.

19. In or about March or April, 1970, the defendants CHARLES BUSIGO-CIFRE and HECTOR ECHEVARRIA met at 380 Audubon Avenue, New York, New York.

20. In or about March or April, 1970, co-conspirator Ramiro Gonzalez met with the defendant DOMINGO DEL CRISTO at the Gallo de Maron bar, 3922 Broadway, New York, New York.

21. In or about March or April, 1970, the defendants ARMANDO GARCIA-ALVAREZ and JOHN DOE, a/k/a "Hugo El Americano" met at a bar in the Alamac Hotel, A & B Bar and Lounge, 2056 Broadway, New York, New York.

22. In or about March or April, 1970, the defendant ARMANDO GARCIA-ALVAREZ met with co-conspirator Ramiro Gonzalez in Miami, Florida.

23. In or about March or April, 1970, the defendant JOHN DOE, a/k/a "Hugo El Americano" received approximately two kilograms of heroin in an apartment at 804 W. 180th Street, New York, New York.

24. In or about March or April, 1970, the defendant RAUL ORTEGA-ALVAREZ and co-conspirators Ramiro Gonzalez and Miguel Rodrigquez delivered one kilogram of heroin to the defendant ARMANDO GARCIA-ALVAREZ in the vicinity of 158th Street and Broadway, New York, New York.

25. In or about March or April, 1970, the defendants JOSE LUIS SARRIA and JOHN DOE, a/k/a "Roberto" received approximately 1 1/2 kilograms of heroin in Hudson County, New Jersey.

26. In or about March or April, 1970, co-conspirator Ramiro Gonzalez met with the defendant JOSE OTERO at the Gallo de Maron bar, 3922 Broadway, New York, New York.

27. In or about March, of April, 1970, the defendant JOSE OTERO received approximately one kilogram of heroin in the vicinity of the Cuba Bar, 1475 St. Nicholas Avenue, New York, New York.

28. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez met with the defendant CIRILLO FIGUEROA at the 005 Bar, 3865 Broadway, New York, New York.

29. In or about March or April, 1970, co-conspirator Ramiro Gonzalez delivered approximately one kilogram of heroin for the defendant CIRILLO FIGUEROA to John Doe in an apartment at 804 W. 180th Street, New York, New York.

30. In or about March or April, 1970, co-conspirator Miguel Rodriguez delivered approximately one kilogram of heroin for the defendant CIRILLO FIGUEROA to the defendant RIGOBERTO ROSAL-RODRIGUEZ at the C.B.C. Gas Station, 2120 Amsterdam Avenue, New York, New York.

-14

31. In or about March or April, 1970, the defendant CARLOS TAPANES delivered one kilogram of heroin to the defendant CIRILLO FIGUEROA in the vicinity of 145th Street and Broadway, New York, New York.

32. In or about March or April, 1970, the defendant JOAQUIN R. PRADA handed 1 1/2 kilograms of heroin to the defendant CIRILLO FIGUEROA in an apartment at 790 Riverside Drive, New York, New York.

33. In or about March or April, 1970, the defendant JOSE RAMIREZ-RIOS received approximately 1/2 kilogram of heroin at the El Bayames Restaurant, 1279 St. Nicholas Avenue, New York, New York.

34. In or about March or April, 1970, the defendant JOHN DOE, a/k/a Roberto Lopez, received approximately 1/2 kilogram of heroin at the Gallo de Maron bar, 3924 Broadway, New York, New York.

35. In or about March or April, 1970, the defendant JOSE ANGEL AGUILARA transported 1/2 kilogram of heroin from Elizabeth, New Jersey, to New York, New York.

(Title 21, United States Code, Sections 173 and 174 and Title 26, United States Code, Sections 4701, 4703, 4704(a), 4771(a) and 7237(a).)

COUNT TWO

The Grand Jury further charges:

On or about March 12, 1970, in the Southern District of New York, RAUL ORTEGA-ALVAREZ, a/k/a Raul Ortega, and CIRO RODRIGUEZ-CALANA, a/k/a Ciro A. Calana, a/k/a Ciro Rodriguez, the defendants, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately twenty kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic

drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

In or about the month of March, 1970, in the Southern District of New York, RAUL ORTEGA-ALVAREZ, LUIS REYES-PADRON, a/k/a "Luis Reyes", and JORGE INFIESTA, a/k/a "Huesso", a/k/a "George", the defendants, unlawfully, wilfully and knowing did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FOUR

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, HECTOR ECHEVARRIA, a/k/a Liborio Morales, a/k/a Hector Arnold Echevarria-Rios, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary

to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FIVE

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, CHARLES BUSIGO-CIFRE, a/k/a Charley Cifre, a/k/a Charley Busigo, a/k/a Cifire, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SIX

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, DOMINGO DEL CRISTO, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately

one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SEVEN

The Grand Jury further charges:

In or about the month of March, 1970, in the Southern District of New York, FRANCISCO ORLANDO PEREZ, a/k/a Francisco Perez, a/k/a "Paco", a/k/a "Jose", and ORLANDO GIL, a/k/a Joaquin Gil, a/k/a Orlando Joaquin Gil, a/k/a Joaquin Orlando Gil y Montero, a/k/a Luis Francisco Gil, the defendants, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/4 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT EIGHT

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, ARMANDO GARCIA-ALVAREZ, a/k/a Armando Alvarez, a/k/a Armando Garcia, a/k/a Andres Alvarez, a/k/a Joaquin Gonzalez, a/k/a "El Chino", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately six kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT NINE

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, JOHN DOE, a/k/a "Hugo El Americano", a/k/a Hugo Contero Viera, a/k/a Hugo Viera, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately four kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director

of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT TEN

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, JOSE LUIS SARRIA, a/k/a "Pepito", a/k/a "Pepe", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately two and one-half kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT ELEVEN

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, CIRILLO FIGUEROA, a/k/a "Lazarito", a/k/a "Lazaro", a/k/a "El Guajiro", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation concealment and sale of a narcotic drug, to wit, approximately six and one-half kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had

theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT TWELVE

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOAQUIN R. PRADA, a/k/a "El Gallego", a/k/a "El Gardego", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one and one-half kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT THIRTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, RIGOBERTO ROSAL-RODRIGUEZ, a/k/a "Blanco Serra", a/k/a "Blanquito Serra",

SH:lq
N-14

a/k/a "Rigo", a/k/a "Rigo Rosal", a/k/a "Roberto", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FOURTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOSE OTERO, a/k/a "Pepe", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

SN:lq
N-14

COUNT FIFTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOSE RAMIREZ-RAMOS, a/k/a Jose Ramirez, a/k/a "Chevas", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SIXTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOHN DOE, a/k/a Roberto Lopez, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SEVENTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOSE ANGEL AGUILERA, a/k/a Jose Alberto Aguilera, a/k/a "El Moro", a/k/a "Mauro", a/k/a "Moscoso", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opuim and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

Edward Silvidi
FOREMAN

Paul J. Curran
PAUL J. CURRAN
United States Attorney

-against-

CHARLES BUSIGO-CIFRE and
DOMINGO DEL CRISTO,

Defendants.

74 Cr. 18

ORDER

Upon the coming in of the jury verdict last night at 6:30 P.M., these defendants were found guilty of violating the narcotic laws. They face a mandatory minimum sentence of ten years each because they are second offenders.

I remanded both defendants without bail pending sentence. The conspiracy here dealt with the distribution of 45 kilos of heroin which was shown to be between 80 per cent and 90 per cent pure. Conservatively speaking, this would have a street value of over $9,000,000. In view of the fact that these defendants are second offenders and face at least the mandatory minimum sentence of ten years, I find both that there is a danger that both of these defendants will attempt to flee the country, and if not, because of their backgrounds, might well continue their operations in the drug traffic.

So ordered.

Dated: New York, N. Y.
March 21, 1974

U. S. D. J.

JUDGMENT

United States of America

v.

Charles Busigo Cifre

No. 74 cr. 18

On this 30th day of April, 1974 came the attorney for the government and the defendant appeared in person and[1] Ms Hermena Perlmutter Esq.

IT IS ADJUDGED that the defendant upon his plea of[2] not guilty and a verdict of guilty by a jury has been convicted of the offense of unlawfully, wilfully, intentionally and knowingly combined, conspired, confederated and agreed with others to violate Sections 173 and 174 of Title 21, United States Code.
It was further a part of said conspiracy that the defendant would receive, conceal, possess, buy, sell and facilitate the transportation, concealment and sale of heroin.
Title 21, U.S.C., Sections 173 and 174.)

------- AND -------

The defendant duly represented admits that he is the person previously convicted as charged in One or more separate Federal Narcotic Violations.

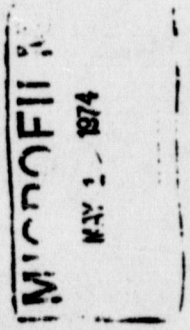
and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

as charged[3] count (1)

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of[4] TEN(10)YEARS on count One(1).

IT IS ADJUDGED that[5]



IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Charles M. McBryde
United States District Judge.

Raymond F. Burghardt
Clerk.

lzjw 2

MIGUEL RODRIQUEZ, called as a witness on behalf of the government, being first duly sworn, testified as follows through the Spanish interpreter:

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MISS NEIMAN:

Q Mr. Rodriguez, please keep your voice up so all the defendants can hear the answers in Spanish.

Mr. Rodriquez, how old are you?

A Forty-three years old.

THE COURT: You have to keep your voice up so the jurors can hear you, Mr. Hoffman.

Q Have you ever been convicted of a crime?

A Yes.

Q In January of 1971, did you plead guilty to several counts of an indictment charging you with conspiracy to distribute narcotic drugs and with the actual distribution of narcotic drugs?

A Yes.

Q Were you sentenced in February 1971 by a federal judge in this courthouse in connection with those charges?

A Yes.

Q And what was the sentence which you received?

A Ten years.

Q And are you now serving that sentence?

A Yes.

Q For how long have you been in jail?

A Thirty-seven months.

Q Do you have any motion pending to reduce that sentence?

A No.

Q Do you have any plans in connection with any attempts to get that sentence reduced?

MR. MITCHELL: Objection, your Honor.

THE COURT: Overruled.

A Yes.

Q What are those plans?

A I plan in a short time to submit an appeal to the judge or maybe ask for a presidential pardon.

Q Do you have any understanding with the government that the government will make any statement in connection with either of those things which you have just described?

A Yes.

Q And what is that understanding ?

A I hope that whatever I attempt to do, the government will let them know, the parties interested, of what

I have done for the government.

Q Mr. Rodriguez, do you know Ramiro Gonzalez?

A Yes.

Q When did you first meet him?

A I knew him by sight since 1964.

Q And when didyou actually meet him and speak with him?

A By 1968.

Q Directing your attention to March of 1970, did there come a time when you had a conversation with Mr. Gonzalez about distributing drugs?

A Yes.

Q Will you tell us where that conversation took place?

A At my home.

Q And where was your home at that time?

A In Westbury, Long Island.

Q Approximately when, if you recall, did this conversation take place?

A About March 10th, more or less.

Q Will you tell us what Mr. Gonzalez said to you and what you said to Mr. Gonzalez?

A At that time Ramiro Gonzalez came to my home and he told me they had just arrived from Florida --

MR. MICHELMAN: Objection. Move to strike the hearsay.

THE COURT: Wait.

MR. MICHELMAN: Objection. I move to strike on the grounds of hearsay.

THE COURT: Mr. Gonzalez is going to be a witness in this trial.

MISS NEIMAN: Yes, he will, your Honor.

THE COURT: All right, I'll accept it.

Q Will you continue with your answer please, Mr. Rodriguez. You were telling us --

A And he told me that they had arrived from Florida and that they had brought 45 kilos of heroin. And that, he was suggesting to me to look around for customers to sell that material.

Q And what did you say to Mr. Gonzalez?

A I accepted his request.

Q At that time did you know Raul Ortega?

A Yes.

Q When did you first meet him?

A In 1969.

Q And where was that?

A In Florida.

Q Through whom had you met Mr. Ortega?

A Ramiro Gonzalez.

Q Will you please identify Mr. Ortega?

MISS NEIMAN: May the record reflect the proper identification of Mr. Ortega.

THE COURT: Mr. Michelman?

MR. MICHELMAN: I must respectfully object for the record since this is not a proper identification --

THE COURT: I am merely asking do you concede the identification?

MR. MICHELMAN: It is Mr. Ortega who is seated to my right, sir.

THE COURT: You may proceed.

Q At that time, Mr. Rodriguez, did Mr. Gonzalez tell you anything about the quality of the heroin?

A He told me we would have no trouble in selling that heroin because it was completely pure and it was going to be easy to sell it in the market.

Q Did you speak to anyone else that day about this 45 kilo shipment of heroin?

A Later on that day I spoke with a man by the name of Sifiori.

Q Mr. Rodriguez, would you spell Sifiori for us?

A As far as I can tell that would be S-i-f-o-r-e.

Q Where did you speak to Mr. Sifiori?

A In front of the house of an uncle of Ramiro Gonzalez.

Q Where was that, in what part of New York?

A In Westbury.

Q What did you tell Mr. Sifiori?

A That day he came to us and asked us whether we could sell him some heroin. Ramiro and I told him that by chance Ramiro had arrived that day and that he had brought heroin from Miami.

MR. MICHELMAN: Your Honor, there are two conversationalists. Can we have that broken down to who said what?

THE COURT: Separate them, if you can, please, Miss Neiman.

Q If you can, please indicate who said what. And if you recall what you said and what Mr. Gonzalez said, try to tell us which of you said it.

Do you remember whether or not you said that to Mr. Sifiori or to Mr. Gonzalez?

A We both told him together that we would sell him material.

Q And did you agree to meet his customers?

A He told me that he had some Italian friends of his that were interested in buying heroin.

MR. MICHELMAN: May I respectfully make a standing objection at this point as to all hearsay

statements. I don't want to bother the Court getting up each and every time and I would like it standing for the record.

MR. FRANKEL: That's for all counsel.

THE COURT: Same ruling for all counsel.

MR. MICHELMAN: Thank you.

MISSNEIMAN: Would you read back the last part of the answer so I know wherewe left off.

MRS. SOLLEDER: I have an objection to that question, leading.

THE COURT: Overruled.

(Record read)

Q Did you eventually meet those Italian friends?

A Yes.

Q Did you ultimately learn several months later that they were federal agents acting in an undercover capacity?

A Yes.

Q When did you first meet one of those Italian customers that Mr. Sifiori told you about?

A Around March the 12th.

Q And who was with you, if anybody?

MR. BLACKETT: If it please the Court, what

year was that?

THE COURT: 1970.

A Mr. Sifiori was with me and with Joaquin Prada.

MISS NEIMAN: Mr. Interpreter, I have given the reporters a list so unless they ask you to spell something or counsel asks --

THE COURT: I would like to hear it. I want to make sure my notes are correct.

MISS NEIMAN: Your Honor, I have an extra list if that will help.

THE COURT: It will.

You may proceed.

Q For how long have you known Joaquin Prada?

A Since 1969.

Q Will you tell us where you were when you and Prada met with Mr. Sifiori?

MRS. SOLLEDER: Objection. What are you talking about, '69?

THE COURT: No, 1970. Listen to the question, Mrs. Solleder.

Where were you with Sifiori and Prada, not just Prada alone.

A In St. Nicholas Avenue and 185th Street,

186th Street.

Q Would you tell us what happened there?

A Through Mr. Sifiori and Mr. Prada acting as an interpreter, we met the two Italians who identified themselves as Frankie and Tommy.

MR. MICHELMAN: I am sorry, I didn't hear the last one.

THE WITNESS: Tommy.

Q Would you tell us what name Mr. Prada used?

A El Gallego.

Q Did you use Miguel Rodriguez as your name, Mr. Rodriguez?

A Yes.

Q Did you have a conversation with Frankie and Tommy?

A Yes.

Q Would you tell us what that conversation was, indicating where you can who said what?

A They told me they were intersted in buying heroin.

MR. JACOBS: Your Honor, I object. Is this supposedly a transaction in furtherance of the conspiracy in this case?

THE COURT: I understand it is.

A The very same night I was arrested, when I was in aplace where they took me to, I don't know where that is, Frankie came and he told me his name was --

MR. JACOBS: Objection as to what he told him.

A Frank Tumillo and that he was a federal agent.

Q Did you also meet Thomas Angioletti? Was he the Tommy you are talking about?

A Yes.

Q Going back to your conversation with the two agents with Mr. Prada and you, would you tell us what they said and what you said to them?

A I told them through Prada that I could sell them a kilo of heroin for $25,000.

They told me that they were interested in receiving a sample of the material. I agreed with them after I gave them the address of Prada's gas station, that they should go by the gas station and I would deliver them the sample.

Q Where was Mr. Prada's gas station?

A Amsterdam Avenue and 165th.

Q Do you know who owned the gas station at that time?

A It belonged to Prada and a man by the name of

Delgado.

Q Do you know who owned the gas station before Prada?

A Yes.

Q Who was that?

A Charles Cusigo.

Q Do you see Mr. Cusigo in the courtroom today?

A Yes.

Q Will you identify him, please. Indicate what he is wearing, please.

A The red tie, the glasses.

THE COURT: Miss Perlmutter?

MS. PERLMUTTER: The defendant sitting next to me is Busigo-Cifre.

Q Do you know this gentleman as Mr. Charles Cusigo as opposed to Mr. Busigo?

A Yes.

Q After the meeting between you, Mr. Prado, Tommy and Frankie, did you see anyone else that day in connection with this shipment of heroin?

A Yes.

Q Who else?

A I had anappointment made for that day with Raul Ortega and Ramirez Gonzalez in a Chinese restaurant

at Broadway and 173rd Street.

Q Did you go to that appointment?

A Yes.

Q Whom did you meet there?

A Ortega, Ramirez, and a man that Ortega introduced to me as his brother-in-law by the name of Ciro Rodriguez.

Q You told us you met Mr. Ortega in 1969. Had you ever met Ciro Rodriguez before?

A No.

Q Will you identify him, please?

A (Indicating).

Q Describe what he's wearing?

A The man sitting between the two ladies.

THE COURT: Mr. Reid?

MR. REID: Yes, your Honor.

THE COURT: Do you concede the identification?

MR. REID: Yes, your Honor.

Q Would you tell what the conversation was at lunch indicating who said what?

A I told Ramirez that I had had an appointment with an Italian friend of Sifori and that I needed a sample of heroin to show it to the clients.

Q What did anybody at the table say, please?

A Ortega told me that there would be no problem, that he would give me the sample later on.

Q Did you go anywhere after lunch?

A Yes.

Q Where didyou go?

A We went to an apartment at 162nd Street.

Q Do you recall anything else about the address of that apartment?

A Yes. It was 666 162nd Street.

Q Can you recall on what floor the apartment was?

A The second floor.

Q What happened in that apartment?

A Ortega came with us to this address trying to locate that friend of his, Jorge Infiesta.

Q What happened?

A Infiesta was not at his apartment.

Q Did you go anywhere?

A From there we went to the 005 Bar.

Q Did you meet anyone at the 005 Bar?

A There Ortega located Infiesta.

Q Had you met Mr. INfiesta before that?

A No.

Q Would you identify him, please?

A (Indicating)

Q Describe what he's wearing.

THE COURT: Mr. O'Connor?

MR. O'CONNOR: Yes. I concede the identification.

MR. BLACKETT: May it please the Court, is the witness reading from something?

THE COURT: No, he's not.

MR. BLACKETT: Thank you.

THE COURT: Proceed.

Q Would you tell us where the 005 Bar is or was in 1970?

A Broadway and 161st Street or close to it.

Q How far from Mr. Infiesta's apartment was that?

A About two and a half blocks.

Q Were you introduced to Mr. Infiesta?

A Yes.

Q Incidentally, Mr. Rodriguez, do you recall what car you were in when you went to Mr. Infiesta's apartment from lunch?

A Yes.

Q What car was that? Will you describe that?

A It was a blue Chevrolet, and Ciro Rodriguez

of heroin?

A I came back to the 005 Bar with Ramirez and I told Ortega that I needed a kilo of heroin for the Italians.

Q Tell us who was present that day at 005 Bar with you during that conversation?

A Ortega, Ciro, Ramirez, Infiesta and myself.

Q Will you continue with the conversation.

A Ortega told me to wait in Infiesta's apartment, that he would bring the heroin to Ramirez and myself.

Q Did you go to Infiesta's apartment later that day?

A Yes.

Q At about what time?

A About 7:00 o'clock in the evening.

Q When you got there, who was there?

A Infiesta and his wife.

Q Did anyone else arrive?

A Around 8:00 in the evening Ortega arrived. He told Ramirez, "Here are the keys to the car, my sister's car. It is parked downstairs. Under the seat you will find a kilo of heroin."

Ramirez and I left. Ramirez told me to drive and I drove to the gas station.

A At the 005 Bar.

Q Do you recall who had introduced you to Mr. Reyes?

A Jose Otero.

Q Please identify Mr. Otero.

A (Indicating)

Q Describe what he is wearing.

MR. STONE: The identification is stipulated, your Honor.

A The man with his hand to his face.

THE COURT: The identification is conceded.

Q Tell us what you did in Mr. Infiesta's house.

A Well, we counted the money again. Ortega told us that he will take $18,000 of that money and Ramirez and I took the balance of that money.

Q Did there come a time when you left Mr. Infiesta's house that day?

A Yes.

Q Where did you sleep that evening?

A At home.

Q Did anybody go home with you?

A Ramirez Gonzalez.

Q Going back for a moment to the distribution of the money, did Mr. Ortega indicate who would receive

the proceeds of the $18,000?

A He told me that he would receive $18,000 for each kilo of heroin; that he had the heroin stashed at the house of his brother-in-law, and that from that money he would take care of paying them.

Q After the sale of this kilogram to the federal agents, did you continue to distribute this shipment of heroin over the next few months?

MR. MICHELMAN: May it please the Court, I respectfully urge that Miss Neiman has been leading this witness for the last number of questionsand I would most respectfully urge --

THE COURT: I don't know about the last number, but certain the last one.

MR.MICHELMAN: Thank you, your Honor.

THE COURT: Reframe your question.

Q What did you do with the shipment of heroin after the sale of the first kilo to the federal agents?

A After the sale was made to the two Italians, Ramirez and I started looking for people whom we could sell the material to.

Q From approximately when to when did you distribute heroin from this shipment?

A March, April.

he went upstairs or downstairs.

Q And where was this location?

A I think that it may have been 20, 25 blocks away. I don't have an exact figure but it wasn't too far from the other house.

Q Was it in Elizabeth, New Jersey, if you know?

A Yes.

Q On this occasion when you were with Mr. Ortega and Mr. Gonzalez at Ciro and Francisca Calana's house, did you do anything to increase the quantity of the heroin?

A Yes.

MR. FRANKEL: At this time I ask the Court again to please caution the District Attorney not only on leading questions but there were some others we have not objected to because they seem innocuous but this one certainly was leading. I will ask your Honor to please ask counsel --

THE COURT: Sustained.

Q Mr. Rodriguez, would you tell us what you did after Mr. Ortega lowered the blinds?

A Well, as I said before, he brought in the suitcase. He returned to the small room off the living room and he brought a scale -- oh, he brought a shopping bag, he brought in a shopping bag. Inside he had a scale,

a sealer. There was sugar to cut the heroin with, there were plastic bags, there were strainers. The equipment necessary to mix and cut the heroin.

Q Would you tell us what you did there?

A Well, Ortega decided to add 9 ounces of sugar to each kilo of heroin --

MR. MITCHELL: Objection, your Honor.

THE COURT: Sustained. You can't tell us what was decided. Tell us what Mr. Ortega did.

A Well, the reason I referred to it that way was at that time I had no idea how this was done --

MR.MITCHELL: Objection, your Honor.

THE COURT: Wait, wait. Mr. Rodriguez, merely describe to us what Mr. Ortega did.

A Well, he added 9 ounces of sugar to each kilo of heroin.

Q And what was the purpose of that?

MR. MICHELMAN: Objection.

THE COURT: Overruled.

A The objective was to mix the heroin with the sugar.

Q Mr. Rodriguez, during the next few months, did you mix heroin on more than one occasion?

THE COURT: Wait a second. Who was present

while this was going on?

THE WITNESS: Ortega, Ramiro, Gonzalez and myself.

THE COURT: All right.

Q Mr. Rodriguez, during the next few months, were you present when heroin was mixed on more than one occasion?

MR. REID: Objection.

THE COURT: Overruled.

A Yes.

Q On approximately how many occasions were you present --

THE COURT: Present where?

MISS NEIMAN: I am going to get into that, your Honor.

THE COURT: All right.

A I don't remember. Several times.

Q Where was this done?

A As I remember, the first time I saw this done was at Jorge Infiesta's apartment.

Q Was that the first time that you had seen this done?

A Yes.

Q What was the second time that you saw this done?

each kilogram to your customers?

MR. JACOBS: Objection.

THE COURT: Sustained. Let's have specifics.

Q Did Mr. Ortega ever mention where he had gotten the 45 kilos?

A On several occasions he mentioned that he had a connection with some Argentinians who were the ones who got the heroin for him.

Q Did he ever say anything to you about where he delivered the money that you turned over to him?

A In one occasion he told us that he would keep the money at the house of a person that he used to call El Padrino.

Q Mr. Rodriguez, when you agreed to sell heroin to a customer, where did you get the heroin from?

MR. JACOBS: Objection. Again it is a general question.

THE COURT: Why don't you come down to specifics, please?

MISS HEIMAN: Very well, your Honor.

Q Mr. Rodriguez, where did Mr. Gonzalez stay during this time period?

A There were times when he slept at my home. At the Paramount Hotel in New York, at the house of an aunt

Q Did you speak to anyone there?

A Yes.

Q To whom?

A With Figueroa.

Q Would you identify Mr.Figueroa?

A The one who's scratching his head.

MR. STONE: I'll stipulate he has identified the defendnt Figueroa.

Q Mr. Rodriguez, do you know Mr. Figueroa by any othername?

A Yes.

Q And what is that?

A Lazarito.

Q Did you have a conversation with Mr. Figueroa at the 005 Bar?

A Yes.

Q What was thatconversation?

A I told him that we were having a transaction with some Italians but that I had noticed that several cars were following us, that I had been at Infiesta's apartment and that I had the certainty that some of those cars belonged to federal agents or to the police. "I want you to do me the favor to go to Infiesta's apartment and tell him that if there is anything wrong inside the

A Yes.

Q Where did you speak to people?

A I spoke to Figueroa at the 005 Bar, with Joaquin Prada at the gas station.

Q Did you speak to anyone else during the first few days following the sale to the agents?

A Yes.

Q Would you list all the people during those first few days?

A I spoke with Paco Perez, Echevarria, Charlies Basigo, Jose Ramiro, Armando El Chino.

Q Directing your attention to the day after the sale to the federal agents, do you recall where you were on that day?

A Would you please repeat the question?

Q Directing your attention to the day following the sale of the first kilo to the federal agents, do you recall where you were that day?

A Yes.

Q Where were you?

A I remember that that noon I had lunch with Ortega, Ciro, Ramiro, and myself at the Chinese restaurant at 173rd and Broadway.

Q Is that the same restaurant that you have already

date?

A No.

Q Would you tell us what the discussion was?

A I remember that I had gone to the hotel to look for Ortega and Ramiro. Ramiro and Ortega told me that Reyes had invited them to lunch. I waited at the lobby in the hotel and all of us went to the aforementioned restaurant.

Q And what was the conversation at the restaurant?

A During that conversation I remember that Ortega asked Luis Reyes that he needed prompter payments from him.

Q Incidentally, Mr. Rodriguez, what hotel were you just referring to, the name of the hotel?

A Paramount Hotel.

Q Mr. Rodriguez, when did you first meet Charles Busigo-Cifre?

A I knew him around 1969.

Q Where did you meet him?

A At the gas station at 165th Street and Amsterdam Avenue.

Q Is that what you refer to as Prada's gas station?

A Yes.

Q Did there come a time when you spoke to Mr. Cifre

about this shipment of heroin?

A Yes.

Q Approximately when was this in relation to the sale of the first kilo to federal agents?

A Six days later.

Q Where did you speak to Mr. Cifre?

A At Prada's gas station.

Q What did Mr. Cifre say to you and what did you say to him?

A Cifre told me that he was interested in buying heroin from us. He had purchased heroin from Prada and they had had some differences about it. And he preferred to buy from Ramiro and myself directly without any intermediaries.

Q Had you sold any of this heroin to Prada?

A Yes.

Q How much of it?

A Half a kilo of heroin.

Q And did Mr. Prada tell you what he had done with that half kilo?

MS. PERLMUTTER: Objection, your Honor.

THE COURT: Why?

MS. PERLMUTTER: I submit, your Honor, it's hearsay on hearsay what Mr. Prada had done with heroin

that he received.

THE COURT: Overruled.

MISS NEIMAN: Mr. Reporter, would you please read that question back.

(Question read)

A Yes.

Q What did he tell you?

A When we made the deal whereby I would deliver half a kilo of heroin to him, he referred to the fact that he had two customers. Charles Busigo and an American black.

Q Did Mr. Prada tell you how much of that heroin he had sold to Mr. Cifre?

A He told me he sold to him a quarter of a kilo.

Q Did he tell you anything else about that sale?

A Prada told me that he had some differences with Charles because of the price and that he would rather that I sell directly to Charles because Charles was very hard.

Q What did you tell Mr. Cifre when he told you that he wanted to deal directly with you?

A I remember that I told him when you finish this transaction with Prada, Ramiro and I will sell heroin to you.

Q And did you talk to Mr. Cifre again?

A Yes.

Q Where were you when you spoke to him again?

A I remember we were at the gas station. We went to a bar right in the corner above the garage and there we discussed the possibility of selling him heroin.

Q And who was present?

A Mr. Ramiro, myself, Charlie, El Gallego came on several occasions to have a drink with us while we were there. Right now I don't remember anybody else coming there.

Q Will you tell us what you discussed with Mr. Cifre?

A We agreed to sell him half a kilo of material.

Q Did you agree upon a price?

A Yes.

Q And what was that price?

A $9500 for that half a kilo.

Q And did you make any arrangements to deliver the half kilo?

A Yes.

Q What were those arrangements?

A Charles told me that towards evening, let's say 7 in the evening, he was going to introduce me to somebody and he wanted me to deliver the material to that person for that person worked for him.

Q And did you meet with Mr. Cifre at about that time?

A Yes.

Q And what happened?

A We met at Prada's gas station and he introduced somebody to me and told me to deliver the half kilo to that person. I met that person, I told him that half an hour later he should wait for me at 790 158th Street and that I should deliver the heroin there.

Q Do you know that person's name?

A No.

Q What was at 790 West 158th Street?

A There is an apartment house where Prada lives.

Q And why did you arrange to meet there?

MR. JACOBS: Objection as to why.

THE COURT: Sustained.

Q Where was the heroin that you were going to deliver to this gentleman?

A In Prada's apartment.

Q Would you tell us what happened after you arranged to meet him in front of Mr. Prada's house?

A I picked up Prada at the gas station, I went up to his apartment. He gave me the half kilo of heroin. I came down to the street, went to the opposite sidewalk and gave the heroin to the person.

Q Did you ever sell any more heroin to Mr. Prada from this shipment of heroin in addition to the half kilo you have already told us about?

A Yes.

Q How much more?

A Half a kilo more.

Q Did Mr. Cifre pay the $9500 for his half kilo?

A Yes.

Q Would you tell us how he made thatpayment?

A He made it through Prada.

Q Did he pay all the money at once?

A No. In several installments.

Q Were the payments made before you delivered the heroin or after you delivered the heroin?

A After we delivered the heroin to him.

THE COURT: Is this a good time to stop?

MISS NEIMAN: Yes, it is, your Honor.

THE COURT: We will adjourn until 10 o'clock tomorrow morning. Will all the jurors please be here promptly so we can start on time.

(The jury left the courtroom)

THE COURT: Yesterday afternoon Miss Neiman delivered to me some pages of 3500 material which she had turned over to counsel but which contained blank spaces that was material that she had excerpted from those particular pages on the basis that they should not be properly turned over as 3500 material. In addition, she gave me the complete record so that I could see the portions that had been excerpted. I have read those documents and I find that I have to talk to Miss Neiman about them. Obviously, if I were to do it in the presence of counsel, they would then know what we are talking about so I am going to ask Miss Neiman to appear in my

A Yes.

Q On approximately how many occasions did you keep heroin at Mr. Prada's apartment?

A In three or four occasions.

Q Did Mr. Prada store heroin for you anywhere else apart from his apartment?

A At the gas station.

Q Did you see where Mr. Prada kept the heroin in the gas station?

A He used a cash register that he kept at the gas station, the desk, and he also used a heating pipe.

Q Tell us how he used the heating pipe?

A The tube was about this diameter (indicating), and about halfway he used to separate them by exerting pressure, and then he would introduce the heroin inside the pipe and close it up afterwards.

Q Mr. Rodriguez, were Mr. Gonzalez and Mr. Ortega in New York throughout this time period?

A No. They traveled to Miami.

Q On more than one occasion?

A Yes.

Q Do you know Hector Echevarria, Mr. Rodriguez?

A Yes.

Q When did you first meet him?

A I met Hector Echevarria around 1962, 1963, in Miami, Florida.

Q Will you identify him, please?

A (Indicating)

THE COURT: For the record, he's identifying Mr. Hector Echevarria.

Q Did there come a time when you talked to him about this shipment of drugs?

A Yes.

Q Approximately when was that?

A I think it must have been three or four or five days after the first sale to the federal agents.

Q Did you get in touch with Mr. Echevarria or did he get in touch with you?

A No. I remember that one afternoon at Prada's gas station Domino Del Cristo told me that he had been at Echevarria's supermarket and that Echevarria was interested in seeing me.

Q Identify Mr. Del Cristo, please.

A The one seated with glasses.

MISS HEIMAN: May the record reflect the identification.

THE COURT: Mr. Richmond? Identification?

MR. RICHMOND: I definitely concede the iden-

tification.

Q Where was Mr. Echevarria's supermarket?

A At 184th Street and Audubon Avenue.

Q Did you go to see Mr. Echevarria?

A Yes.

Q Did you have a conversation with him?

A Yes.

Q Tell us what that conversation was.

A He told me that he had heard that I had heroin and he was interested in my selling him some material. I told him that I would sell him one kilo of heroin for $21,000.

He told me he was interested in buying half a kilo of heroin from me.

I told him I had a partner in the business by the name of Ramiro Gonzalez; that I was going to try to put them in touch and let him know of his request.

Q Did you speak to Mr. Gonzalez about Mr. Echevarria?

A Yes.

Q Did you put Mr. Gonzalez in touch with Mr. Echevarria?

A Yes.

Q Did you agree to deliver any heroin to Mr.

Echevarria?

A Yes.

Q Will you tell us whether or not you did deliver anything?

A Yes.

Q Where did you pick that heroin up?

A Raul Ortega gave it to me at Infiesta's apartment and Ramiro and myself delivered it to Echevarria at the supermarket.

THE COURT: How much was it?

THE COURT: Half a kilo of heroin.

Q Did Echevarria pay for this half kilogram of heroin?

A Yes.

Q Would you tell us in what manner he paid for it?

A That would be a long story.

Q Tell us whether you had any problems collecting money.

MR. MITCHELL: Objection.

THE COURT: Sustained.

Q Tell us what happened in your attempts to collect the money.

MR. MITCHELL: Objection, your Honor, as to the

word attempts.

THE COURT: What did he do to collect the money.

MR. MITCHELL: All right.

Q What did you do to collect the money, Mr. Rodriguez?

A Well, after having delivered the heroin I started to return to the grocery, to the supermarket, trying to locate Mr. Echevarria but it was impossible to locate him. I would speak to his wife Isabel and I would leave messages for him.

MR. MITCHELL: I will object to that, your Honor.

THE COURT: Overruled.

A (Continuing) I would leave messages with her asking him to get in touch with me to pay.

MR. MITCHELL: I will object on the ground that whoever he left a message with is not a party --

THE COURT: He's saying what he said. Overruled.

A (Continuing) By that time I told Ramiro what was going on. He started coming frequently to the supermarket as well to locate Echevarria. He even used Tino and El Guajiro to exert pressure on him. It was all to no avail.

In one of the last occasions Mrs. Isabel told me --

MR. MITCHELL: I'll object to that.

THE COURT: Sustained.

Q As a result of what she told you, tell us what you did.

A Well, I tried to locate Charlie Cusigo that was going to make himself responsible for the payment of this debt.

MS. PERLMUTTER: Objection.

THE COURT: Who told you Mr. Cusigo was going to be responsible for this debt?

THE COURT: Mrs. Echevarria.

THE COURT: I'll strike the testimony.

Q Did you speak to Mr. Cusigo-Cifre?

A I remember that that afternoon at El Gallo De Maron, Ortega, Ramiro, myself, we spoke with Cusigo.

He told us that he agreed to pay $2,000 to that account but that he would not pay for the balance of $6500.

After that we continued having problems until one day when I left a meeting at the supermarket that I was going to take over that account and that Echevarria would pay me whenever he could.

Q In March of 1970 how long had you known Cirillo Figueroa?

A I knew him since 1968.

Q Would you identify him again, please, Mr. Rodriguez?

THE COURT: He has already identified him.

Q Where did you have a conversation with him about this heroin?

A Well, the first conversation with Lazarito was at the 005 Bar.

Q By Lazarito, do you mean Cirillo Figueroa?

A Yes.

Q Will you tell us what that conversation was.

A I was together with Ramiro and I remember that was the same day when we delivered heroin to Chaveco. Lazarito told us that he was interested in buying heroin directly from us because he had been buying from Luis Reyes and Jorge Infiesta.

MR. STONE: Objection and move that that be stricken.

THE COURT: Stating what Mr. Figueroa said to him.

Did Mr. Figueroa tell this to you?

THE WITNESS: Yes.

MR. STONE: I withdraw the objection.

Q Continue, Mr. Rodriquez.

A (Continuing) So we agreed to sell him heroin directly.

Q How much heroin did you agree to sell to Mr. Figueroa?

A Well, the first order he placed was for one kilo of heroin.

Q Did you agree upon a price?

A Yes.

Q Do you recall what the price was?

A $19,000.

Q Did you make any arrangements for the delivery of that one kilogram?

A Yes.

Q What were those arrangements?

A I remember now that he introduced me to a fellow who lived at 175th Street returning from the Florida Bar and he told me that whenever I had the heroin ready to deliver it to that person at the apartment.

Q Where was that apartment?

A At 175th Street and Broadway.

Q On what floor, if you can recall?

A On the ground floor.

THE COURT: How much heroin did you sell him, altogether?

THE WITNESS: Five and a half kilos.

Q Would you tell us about your second transaction with Mr. Figueroa? Where did you speak to him?

A Well, almost all of the conversations with Figueroa were at the 005 Bar. Occasionally I saw him sometimes at the La Vertientes Restaurant, but it was normal for us to meet at the 005 Bar.

Q In your second transaction with Mr. Figueroa, how much heroin did he purchase from you?

A One kilo more.

Q Andwhere did you deliver that heroin?

A At the 005 Bar.

Q And to whom did you deliver it?

A To himself.

Q Did Mr. Figuroa pay for this kilo?

A Yes.

Q Did you speak to him again about the purchase of more heroin?

A Yes.

Q Will you tell uswhat your conversation was with him on that occasion?

A Well, on that occasion he told me that he

needed one kilo of heroin but thathe wanted it delivered to Blanquito Serra.

Q Will you please identify Blanquito Serra?

A (Indicating).

MR. BLACKETT: My client is one he referred to.

Q Do you know Mr. Blanquito Serra's true name?

A No.

Q Had you met him before March 1970?

A Yes.

Q When had you first met him?

A I met him around 1969 at the 005 Bar.

Q Who introduced you to him?

A By that time Pepe Otero introduced him to me.

Q Will you tell us what arrangements were made for delivery of this third kilogram?

A Well, I told him to wait for help at the Prada's Gas Station around 7:30, 8 in the evening, and there I delivered the kilo of heroin to Blanquito Serra.

Q When you say you told him, who are you referring to?

A Cirillo Figueroa.

Q Did you go to the Prada Gas Station?

A Yes.

A Yes.

Q Do you recall whether anyone was with you at this particular conversation, apart from Mr. Figueroa?

A I don't remember right now.

Q What did Mr. Figueroa say to you?

A He spoke to me again about the fact that he wanted to buy some more heroin.

Q Did you arrange to deliver any heroin to him?

A Yes.

Q What were those arrangements?

A Well, I remember that I had left at Prada's house or, that is to say, I had given Prada the keys to my car that I had parked in front of the building where he lived and I had told him that I had six and a half kilos of heroin in the car and I needed it to be stashed in his apartment.

After he carried out that operation, I told him that there were several customers who were going to purchase that heroin and that they would get in touch with him for that.

Q Did you tell anything to Mr. Figueroa about picking up his kilo of heroin?

A Yes.

Q What did you tell him?

A I told him, get in touch with Prada at the gas station and tell him to "give you the kilo of heroin."

Q Did you speak to Mr. Figueroa after that?

A Yes.

Q Did he tell you anything about whether or not he had gotten the heroin?

A Yes.

Q What did he tell you?

A Well, he told me that he had gone to Prada's apartment, that he had seen more heroin in the place, that there were several packages of heroin, and that he had taken half a kilo more.

Q Did you speak to Mr. Prada about this?

A Yes, Prada told me that. I told him there would be no problem about it.

THE COURT: We will have a short recess.

(Jury leaves courtroom)

THE COURT: For the record, I have reviewed the documents submitted to me by the Assistant United States Attorney, consisting of 3501(b)(2), 3501(d)(2), 3501(f)(2), 3501(g)(2), 3501(j)(2), 3501(n)(2), 3501(r)(2) and rule that the portions excerpted from the copies of this turned over to defense counsel were properly excerpted by the government.

A Yes.

Q Did he ever ask you for any more heroin from this shipment?

A Yes.

Q Would you tell us what that conversation was?

A He suggested to me that he needed some more heroin. I told him that for the moment we had no more, that Ortega had told me that he was expecting some more to be brought in and if it arrived, I would sell to him again.

Q Do you know Domingo Del Cristo?

A Yes.

Q When did you first meet him?

A That I remember exactly, that was around 1968.

Q Did there come a time when you talked to him about the heroin in this shipment?

A Yes.

Q Do you recall approximately when this was?

A Well, I think it was around the month of March.

Q Whyre did you speak to Mr. Del Cristo?

A We used to see each other at Prada's Gas Station.

Q Will you tell us what he said to you and what you said to him?

Mr. Viera about this shipment of heroin?

A Yes.

Q Would you tell us how that came about?

A Well, on one occasion I arrived at the Prada's Gas Station and Prada told me that Armando El Chino, from Puerto Rico -- he had arrived from Puerto Rico, he told me from Puerto Rico -- was trying to locate Ramiro Gonzalez.

Later on, I let Ramiro know about Prada's message. I came back again to the gas station and Prada told me that Armando had been there together with Hugo and El Mirna, trying to talk to Ramiro Gonzalez, whom he said he knew from Puerto Rico.

We made an appointment at the bar in New York, El Alamac Bar, and Ramiro and myself went to that appointment.

Q Who made that appointment?

A Well, they left a message to see them at that place.

THE COURT: Who was at this place?

THE WITNESS: El Alamac Bar.

THE COURT: Who was there?

THE WITNESS: Armando Chino and Hugo El Mirna.

Q Mr. Rodriguez, when Mr. Prada gave you the message that Armando El Chino had been looking for Ramiro Gonzalez, had you ever met Armando El Chino?

A No.

Q Did you meet him at the Alamac Bar?

A Yes.

Q Will you identify him, please?

A The first one in the row --

MR. FRANKEL: The identification is conceded.

Q Do you know what his true name is?

A Iknew him as Armando Chino.

MR. FRANKEL: I will concede --

MR. JACOBS: Can we fix a time, your Honor?

THE COURT: He said sometime in March.

Q Who wasat the Alamac Bar?

A Armando, Hugo Mirna, Ramiro Gonzalez, and myself.

Q Did you ever speak to Armando El Chino again after that meeting?

A Yes.

Q Where did you see him again?

A At the Prada's Gas Station.

Q Who was present, apart from you and Armando

Fort Washington.

Q Did you go there?

A Yes.

Q Will you tell us what happened?

A Well, I came to that intersection, I parked the car, I got off, I waited for about two or three minutes, perhaps. Armando showed up and I told him "I have the heroin in the car."

He got inside the car with me, we went around the neighborhood, and I delivered the heroin to him. He left and so did I.

Q Do you know where Hugo Viera lived at this time?

A Yes.

Q Where?

A Perhaps -- I am not too sure -- but about half a block from the address where I met him.

MR. JACOBS: Met who?

THE COURT: Met El Mirno.

Q Do you recall Mr. Viera's precise address?

A No.

Q Do you know whether Armando El Chino lived in New York or somewhere else?

Q Tell us what happened when you collected that $14,000 at that apartment.

A One night around 8:00 o'clock in the evening I was with Ramiro at El Gallo De Maron and he asked me how much had Armando paid, so I told him that he had delivered $4,0000 and he told me "That's very little money. I'm going to call Miami, Armando's house, and I shall speak to him about it."

He went to a public phone and called.

He came back to where I was drinking and he told me, "Look, go to this address and they will give you $14,000."

Q Did you go to that address?

A Yes.

Q Whom did you see there?

A Well, I went to that apartment. I rang the doorbell of the address, a woman came out, and I told that Armando Chino had sent me to pick up something she had there and a man came out. He told me his name was Willie. He asked me to come in.

I went through, let's say, the living room and I went through another room. Several men and women were there, among them Hugo Americano, and they gave me a paper bag with $14,000.

Q Who are you referring to by "they"?

A Well, the money was given to me by that woman.

Q Did you have a conversation with Hugo Americano at that time?

A Well, at that time he told me that he was tired of the fact that Ramiro did not trust him and he came with me to the Gallo De Maron. When I came back to the Gallo De Maron Ortega had arrived. Ramiro spoke to him and they spoke there.

Q Did you agree to deliver any more heroin to Armando El Chino?

A Yes.

Q Whom did you speak to about that?

A Ramiro told me to get in touch with Armando to give him a kilo and a half of heroin.

Q Did you get in touch with Armando?

A Yes, at Prada's gas station

Q Tell us what conversation you had.

A I wanted to deliver the heroin to him at that place but everybody was afraid of that place, so he told me that at Broadway and 158th Street there was a flower shop; that he was going to buy some flowers for the saints and that he would meet me there.

A In fact I knew Paco by sight so on one occasion Ramiro told me that Paco would get in touch with me and that I should give him a quarter of a kilo of heroin that I have stashed at the apartment of Cirillo Figueroa's friends.

Q Is that the quarter of a kilo you have already told us about?

A Yes.

Q Did you see Paco Perez?

A Yes.

Q Where was that?

A Well, I saw him at Prada's gas station. I made an appointment with him at 175th Street and the street below Broadway.

Q Did you go to that appointment?

A Yes.

Q Would you tell us what happened there?

A Well, I picked up the heroin that Figueroa had assigned to me at the apartment. I waited at the bar. When I came out to the street I did not see Paco's car on the street at the point where we had made an appointment. I went into the bar. About five minutes later he turned west at Broadway and 175th. I came out. I got into my car. I parked besides his and I passed the quarter

Q Are those the two people who went with Mr. Gonzalez to Mr. Echevarria's supermarket?

A Yes.

Q When Mr. Ortega and Mr. Gonzalez went to Florida did they leave you with any heroin?

A Yes.

Q On more than one occasion?

A Yes.

Q What was the largest amount that they ever left you when they went to florida?

A Six and a half kilos.

Q Will you tell us where you picked up that heroin?

A At Ciro Rodriguez' apartment.

Q What did you do with that six and a half kilos?

A I stashed them in Prada's apartment.

Q Did you deliver those six and a half kilos to your customers?

A I delivered six kilos and one quarter.

Q To whom did you deliver those six and a quarter kilos? List the people.

A Figueroa --

THE COURT: Is this repetitious to what he has already testified to?

MISS NEIMAN: No, your Honor. We are not going to go through any transactions again. I want him to list the people that got that amount. With the exception of Mr. Figueroa they are different people.

A Pepe Otero, Jose Ramirez, Roberto Lopez, Jose Sarria, and somebody by the name of Paquete.

Q Which deliveries to Mr. Figueroa came out of this six and a quarter kilo amount?

A Prada gave him a kilo and a half.

MR. STONE: Objection.

THE COURT: Is this in addition to that which he has testified to?

MISS NEIMAN: I asked him which deliveries were made out of this six and a quarter.

THE COURT: He has testified to one and a half.

MR. STONE: He is not saying Prada gave it to him.

MISS NEIMAN: He has testified to that.

MR. STONE: It's confusing.

Q Which other transactions were there?

A I also gave him an additional kilo from that same heroin.

Q Which transaction that you have told us about is this one you just mentioned?

A At the Gallo De Maron.

Q Did you deliver it there?

A Yes.

Q Do you remember where you delivered it at the bar?

A I made three separate deliveries to him.

Q Do you remember where you made the first delivery?

A In the kitchen at the bar, and the men's room, and the other one through Prada at the bar.

Q How much heroin on each occasion did you deliver to Mr. Lopez?

A Half a kilo of heroin on each occasion.

Q Was anyone else present when you made any of these three deliveries to Mr. Lopez?

A Prada was present on one occasion.

Q Do you recall whether anybody else was ever present?

A I don't remember.

Q You mentioned Mr. Ramirez whom you referred to as Cuevas.

When had you first met Mr. Ramirez?

A Around 1969.

Q When did you first speak to him about this shipment of heroin?

Q Mr. Rodriquez, do you know someone by the name of El Moro?

A Yes.

Q Will you identify him, please?

A The last one on the bench.

MISS NEIMAN: May the record reflect the identification of Jose Angel Aguilera.

MRS. SOLLEDER: Yes, your Honor.

Q Do you know whose names is Jose Angel Aguilera?

MRS. SOLLEDER: I object, your Honor.

THE COURT: Overruled.

A No.

Q When had you first met El Moro?

A I saw him for the first time in Florida, for the first time in 1969.

Q Who introduced you to him?

A Ortega.

Q Did there come a time when you spoke to El Morro about this shipment of heroin?

A No.

MRS. SOLLEDER: I object, your Honor. There has not been any testimony about El Moro and heroin right now.

THE COURT: That's not objectionable.

THE COURT: Ortega is a defendant in this lawsuit. Objection overruled.

Q Did you go anywhere from the 005 Bar?

A I remember that that night I went to New Jersey to Ciro's apartment and that when I arrived there El Moro was there.

Q Did you have a conversation about heroin?

A I remember Ortega asked me to give El Moro a drive back to New York.

MRS. SOLLEDER: I object unless it is in the presence of El Moro.

THE COURT: Overruled. This is a conspiracy count.

Q Continue please.

A I tried to bring him back to New York.

El Moro told me that he was considering taking that heroin to Chicago where he had some customers. That's what I remember. More or less we spoke about heroin on the way.

Q Did he tell you how much heroin he had received from Ortega?

A Half a kilo.

Q Did you drive him back to New York?

A Yes.

pgr2 M.Rodriquez-direct

A Yes. In two additional locations.

Q Would you tell us what the arrangements were for the second transaction, the one after the quarter of a kilo?

A We made an appointment at the restaurant, Bergenline Avenue.

Q Whom did you make that appointment with?

A With him.

Q By him you mean with Mr. Sarria?

A We were speaking about him.

Q Did you go to the restaurant on Bergenline Avenue?

A Yes.

Q Did you go anywhere before that?

A I went to the lechonera there.

Q Where had you gotten heroin on this occasion?

A From Ciro Rodriguez's apartment.

Q From whom had you gotten the heroin?

A Ortega had given it to me.

Q Did you see Jose Sarria?

A Yes.

Q Did you deliver the kilo and a quarter?

A Yes.

Q Tell us what your conversation was.

A Well, by that time Ramiro and Ortega were dealing directly with him.

Q Did you ever deliver any more heroin to Mr. Sarria?

A No. Not me.

Q Do you know anyone by the name of Pirollo?

A Yes.

Q Do you know him by any other name?

A Carlos Fernandez.

Q Approximately when did you first meet Pirollo?

A Around March, 1970.

Q Who had introduced you to him?

A Echevarria.

Q Did there come a time when you spoke with Pirollo about this shipment of heroin?

A Yes.

Q Will you tell us who was present?

A Prada, Ramiro, Pirollo and myself.

Q Where was this conversation?

A At Prado's apartment.

Q Tell us what the conversation was?

A Well, I had made a delivery to that apartment to give him a kilo and a half of heroin.

Q To give whom?

Q Did you participate in the sale of every one of the 45 kilograms?

A No.

Q Approximately how many kilograms did you participate in selling?

A I think about 20 kilos.

Q Did you ever have an accounting with Ramiro Gonzalez and Raul Ortega?

A Yes.

Q Do you recall where this was?

A At the apartment in Elizabeth.

Q Do you recall approximately when during this time period this took place?

THE COURT: When you say the apartment in Elizabeth, do you mean the apartment of the defendant Ciro Rodriguez-Calana?

THE WITNESS: Yes.

(Question read)

A I don't remember. That was at the very end when we ran out of heroin.

Q What was the conversation?

A We tried to settle our accounts.

Q Tell us as best as you can recall what every body said.

A Well, in fact, there was a problem when we met because the heroin that was taken from each package, from each kilo, nine ounces were taken out were supposed to be profit for Ramiro, myself, and Ortega. Through some explainable way that heroin did not show up.

Q By not show up, you mean in the accounting?

A No, no. The heroin didn't show up.

Q Do you mean you didn't see it? Is that what you are saying?

A Let's assume that that --

MR. MICHELMAN: Objection, your Honor.

THE COURT: You can't say the word assume. What do you mean when you say the ounces didn't show up? They didn't have them?

THE WITNESS: Yes. They disappeared.

Q Did you see them disappear?

THE COURT: You don't see them disappear. Mr. Rodriguez, who took the nine ounces out of each kilo?

THEWITNESS: Ortega.

THE COURT: Did he keep the nine ounces from each kilo?

THE WITNESS: Yes.

THE COURT: When it came to your accounting

Q At this time were you also introduced to a man named Hovsep Caramian?

A Yes.

THE COURT: How do you spell it?

THE WITNESS: C-a-r-a-m-i-a-n.

THE COURT: This morning I had the interpreter stand back because when you stand next to the witness he has a personal conversation with you. We have to have all the defendants here.

Q During this time when you were involved with heroin, where were you living?

A In Miami, Florida.

Q Where were all your heroin dealings?

A In New York.

Q About how often would you come to New York during this time?

A Almost every month.

Q How would you know that it was time to come to New York?

A I would be told by Segunodo Coronel.

Q How would you come to New York?

A By car.

Q During this period, how many apartments did you have in New York?

A I used to have nine to ten during that whole period. Three during one single trip.

Q Would you use these apartments to store heroin?

MR. JACOBS: I object, leading.

THE COURT: Sustained.

MR. KAUFMAN: It is still basically the background, your Honor.

THE COURT: Oh, no. It is not.

Q Mr. Noa, to what use did you put some of these apartments in connection with the heroin business?

MR. JACOBS: I have an objection as being outside the scope of the conspiracy. We were told this case involved one shipment and the distribution of one shipment of heroin. We are talking about 1968 and 1969, which has nothing to do with it.

THE COURT: I will allow it as background material.

A I used to stash the heroin in them and distribute some of it.

Q How many of these apartments did you use as stash apartments?

A Three.

Q Do you recall what apartments they were?

A One on 49th Street between 8th and 9th; another

one on 47th Street between 9th and 10th in Manhattan; and another one at 171st Street and Audubon Avenue.

Q Mr. Noa, until what date were you involved in the heroin business?

A Until December 2, 1970.

Q What happened on that date?

A I was arrested.

Q On what charge were you arrested?

A Five charges.

Q What were the nature of the charges?

A Transportation, smuggling of, possession, sale and introduction to this country of heroin.

Q Were you convicted on those charges?

A Yes, sir.

Q Where did this occur?

A In Miami, Florida.

Q Was this in federal court?

A Yes, sir.

Q Have you been sentenced on that?

A Yes, sir.

Q What is your sentence?

A Seventeen years.

Q Are you still in jail?

A Yes, sir.

Q Do you currently have a motion pending in Florida to reduce that sentence?

A Yes, sir.

Q Is it your understanding that the government will make the fact of your cooperation known to the sentencing judge?

A Yes, sir.

Q Directing your attention to late January of 1970, did someone tell you to come to New York for a shipment of heroin?

MR. STONE: Objection, certainly a leading question -- already given the answer.

THE COURT: Overruled.

A Yes, sir.

Q Who told you to come to New York?

A Segunodo Coronel.

Q Did he tell you in person or over the phone?

A Personally.

Q Where did this occur?

A In a restaurant of his ownership in Miami.

Q Do you remember the name of this restaurant?

A La Brisa Del Cacahual.

Q Did he tell you why you should go to New York?

A Yes.

Q What did he tell you?

A He told me to come because a shipment of heroin was expected.

Q Did he tell you whom to contact in New York?

A Yes.

Q Who did he tell you to contact?

A With Mr. Arenas.

Q Did you go to New York?

A Yes, sir.

Q Do you remember when you arrived in New York?

A On February 2, 1970.

Q How did you come to New York?

A By car.

Q Where did you go when you got to New York?

A First of all to the apartment on 49th Street between 8th and 9th, and afterwards to see Mr. Arenas.

Q Where did you go when you went to see Mr. Arenas?

A To a shoe store in 91st Street and Amsterdam

Q Was this the same shoe store that Mr. Arenas had when you first met him a few years earlier?

A When I first met him it did not used to be a shoe store. It used to be a herbal store and it wasn't of his ownership, did not belong to him.

Q Who told you to escort Mr. Caramian ?

A Mr. Arenas.

Q And what happened then?

A Mr. Caramian got inside my car and he told me to go to the International Airport, to Kennedy International Airport.

Q Did you go to Kennedy International Airport?

A And I went to the airport and he showed me where to go -- to the International parking lot. He showed me the way until he told me to "Stop here." He got off the car. So did I. He tried to open a car that was parked there and he wasn't able to because it was too cold, so I helped him open the trunk. He told me to open the trunk in my car and we switched three suitcases from that car of his to my car. When he finished the transferring of the suitcases, he told me "here are 60 kilos, and good luck."

Q How many suitcases were there, do you recall?

A Three suitcases.

Q Can you describe the suitcases?

A They were Samsonite, grey.

Q What happened after the suitcases were transferred into your car?

A Well, he stayed there and I came back to

Manhattan.

Q What did you do when you returned to Manhattan?

A I put two suitcases in an apartment that I had on 49th Street. I took another suitcase to the apartment I had on 47th Street and I put my car away.

Q Did you open the suitcases when you brought them up to your apartment?

A After I came back to the apartment I opened the suitcase to try the heroin and to stash it.

Q How many packages were there inside the suitcases?

A One hundred twenty packages of half a kilo each.

Q What did you do with the heroin after you opened the suitcases?

A I tried it. I tested it.

Q How did you test it?

A With an oil thermometer of 300 degrees to see the temperature at which it burned.

Q What did your test indicate to you?

A That this was A-1.

Q Was all the heroin the same or were there different types of heroin?

A There were three types of three different

in front of his apartment. Twenty minutes later, approximately, I arrived there. He was waiting for me. And I told him I had the heroin on me and I wanted him to pick it up because I didn't want to lose it or be arrested.

So he told me that he had no place to take it to, but anyway he climbed up on my car and he told me, "Come with me."

I went down on 187th to Audubon Avenue. He told me to turn right at about halfway through the block he told me to "Stop here." He told me, "Let's take out the suitcases." I picked up two suitcases and he picked up one. He went to an apartment on the second floor in a building there. He rang the bell. They opened the door and I deposited my two suitcases and he deposited his in the middle of the living room, and I told him, "Well, I wish you luck because I'm leaving," and that is where the 60 kilo trip ends.

Q Was this apartment in which you dropped off the suitcases a different apartment than the one on 187th Street where Arenas lived?

A Yes, this was a different type and a different address .

Q When you dropped the suitcases off at this

apartment, how many kilos were in the suitcases?

A Fifty-five kilos.

THE COURT: Do I gather this apartment was on Audubon Avenue between 187th and 188th Streets?

THE WITNESS: Yes, sir.

Q Did you then return to Florida?

A About two or three days later.

Q After returning to Florida, did you have a conversation with Segunodo Coronel?

A About a month and a half after I returned to Florida.

Q Tell us what you said and tell us what he said.

A He asked me to come and see him because I owed him some money and I had to pay him, so I gave him an appointment at the bank, which is in 12th Street and First Avenue Northwest, and the name of the bank is Riverside Bank. He was waiting for me at 9:00, 9:30 in the morning. So I asked him, how did the business end. He told me that they didn't come out too well; that they had taken Mr. -- taken with him --

MR. STONE: Objection. We are now giving hearsay prior to the conspiracy.

THE COURT: How is this admissible?

MR. KAUFMAN: This is a conversation between Mr. Noa and Mr. Coronel. Coronel is named as a co-conspirator.

MR. STONE: It is considerably prior to the conspiracy, certainly.

THE COURT: Considerably later. This is sometime at the end of March, the beginning of April.

Isn't that correct?

THE WITNESS: That is correct.

MR. STONE: It was later.

THE COURT: During the conspiracy, during the times alleged. The objection is overruled. Go ahead.

A He said that the business did not end up -- did not come out too well because he had taken Mr. Ortega with him to help him because his religion did not allow him to touch heroin during those days.

THE COURT: Whose religion didn't allow him to touch heroin during those days?

THE WITNESS: Mr. Segunodo Coronel's religion.

THE COURT: During what days?

THE WITNESS: It must have been during those days in the month of May. He told me during those days and I did not ask him what days.

Q Would you see him at any other places?

A Sometimes at some bars like the 005, El Torero and El Gallo De Maron.

Q Do you know a man named Charles Busigo-Cifre?

A Yes, sir.

Q Since when have you known him?

A 1969. He used to have a gas station and I used to go there to buy gas and have my car repaired.

Q Do you recall where that gas station was?

A 165th Street and Amsterdam Avenue.

Q Do you see Charles Busigo-Cifre in the courtroom today?

A Yes.

Q Will you please indicate who he is?

A The second one in that row (indicating).

MS. PERLMUTTER: Your Honor, indicating my defendant.

Q Do you know a man named Domingo Del Cristo?

A I know him very little. I have seen him very little. I am not sure whether I shall be able to recognize him.

Q Since when have you known him?

MR. RICHMAN: I object to this entire line of questioning. In his answer he says he wouldn't recognize

Q What kind of store did you open?

A A store for religious articles.

Q What is your religious background?

A African.

MR. JACOBS: Objection.

THE COURT: Overruled.

Q Are you a minister in this religion?

A I am a bablau, high priest of the Yoruba cult.

MR. REID: I object to this testimony with respect to his religion. I think it is totally irrelevant.

THE COURT: Overruled.

Q Do you know a man named Segunodo Coronel?

A Angel Segunodo Coronel.

Q How long have you known him?

A Since 1967.

Q What is your relationship with Mr. Coronel?

A He is my godson.

Q When you say godson, do you mean within your religion?

THE COURT: Wait. You can ask him what he means by godson, but let him answer.

Q What do you mean by godson, Mr. Arenas?

A I am his religious godfather because he belongs to my cult, and that is the relationship we used to

have.

Q Did this store that you opened always remain a store which sold religious items?

A No.

Q When did you change it?

A Towards the end of 1969, beginning of 1970.

Q What kind of store did it become?

A A shoe store.

Q Was selling shoes the way you earned a living?

A Selling shoes, selling women's clothing, gifts from my godsons, and I got involved in the drug business.

MR. JACOBS: Could the witness be told to speak a little louder? We really can't hear.

Q When did you become involved in the narcotics business?

A Towards the end of 1968.

Q What drugs were you involved in?

A Heroin.

Q Who started you in the heroin business?

A Angel Segunodo Coronel.

Q How long did you continue being involved with heroin?

A Until 1970, December of 1970.

Q What happened in 1970 to cause you to stop

known the fact of your cooperation to the sentencing judge?

A I hope so.

Q Are there any investigations currently outstanding against you?

A Yes, sir.

Q What investigation is that?

A The Internal Revenue Service.

Q Have any promises been made to you in connection with this investigation?

A None whatsoever.

Q Directing your attention to January 1970, do you recall a shipment of heroin that came into the United States at that time?

A Yes, sir.

Q How did you first hear about it?

A At the beginning of 1970, around January, Mr. Caramian interviewed Mr. Angel Segunodo Coronel while I was present in my shoe store.

Q Was there a conversation among the three of you?

A Yes, sir.

Q What was said by yourself, Mr. Coronel and Mr. Caramian?

A Mr. Caramian was offering 60 kilos of heroin.

Q Who was Caramian?

A Caramian is the one who used to transport the heroin from South America.

Q When did you first meet him?

A Towards the middle of 1969.

Q Did you and Coronel eventually agree to take delivery of this 60 kilo shipment?

A First there is a story I should tell.

THE COURT: No. You are asked questions and you give answers.

Q Can you answer that question yes or no, Mr. Arenas?

A Yes. Yes.

Q Do you remember when you agreed to take the 60 kilogram shipment?

A Possibly, probably towards the end of January, beginning of February.

pqr2 Arenas-direct

A Manuel Noa, together with Caramian.

Q How do you know they went out there?

A Because they agreed in my store about the date at which they would meet to go together to the airport to pick up the heroin.

Q Did they meet preparatory to go to the airport to pick up the heroin?

A Yes, sir.

Q Where did they meet?

A In my store on Amsterdam Avenue.

Q What happened at that meeting?

A They went to the airport to pick up the merchandise so that Noa would stash it.

Q Do you know whether Noa actually picked up the heroin at the airport?

A As soon as he came back he told me so.

Q How long did Noa have the heroin?

A About two weeks or 13 days or something like that. Two weeks approximately.

Q Did anything happen after Noa had the heroin for this period of time?

A Yes, sir.

Q What happened?

A Noa came to my home and he told me that he had

certain tracks in the keyhole, that he didn't have any safety there to keep that merchandise, that he had to leave for Miami, and he wanted me to stash that merchandise.

Q Where was this meeting when Noa told you this?

A At an apartment at 515 West 187th, apartment No. 63.

Q Was this your apartmnt?

A My apartment.

Q What happened after Noa told you this?

A Well, we argued for a long while about the merchandise and then I decided since he insisted so to stash it in the apartment where the mother of my two sons lives which is in Audubon Avenue corner of 188th Street.

Q Did there come a time when Noa turned the heroin over to you?

A Automatically he brought two suitcases to the apartment and I put them inside a closet and that's where they stayed.

Q Can you describe the suitcases?

A These were large Samsonite suitcases.

Q Do you know what was inside the suitcases?

A Since he told me it was heroin and I knew he had gone to pick up heroin it was heroin.

Q What did you do after you received this heroin?

A Automatically I called Segundo Coronel in Miami and I told him he had to pick up that merchandise fast and he told me that precisely then he was in conference with Raul Ortega.

MR. MICHELMAN: Objection.

THE COURT: On what grounds?

MR. MICHELMAN: Double hearsay. This man is not a named defendant here, the man who supposedly told him.

THE COURT: Isn't Coronel named as a co-conspirator?

MR. MICHELMAN: As far as I know he's not going to be a witness here.

Q Continue with your answer as to what Coronel told you on the telephone.

A That he would send Raul Ortega away to pick up the merchandise.

Q Did you know who Raul Ortega was?

A Yes.

Q When had you first met him?

A About October 1968.

Q Who had introduced you to Ortega?

A Segundo Coronel and Umberto Coronel.

Q Was Ortega involved in your religion?

A Yes, sir.

Q Were you his padrino?

A I was his first degree godfather.

Q Do you see Raul Ortega in the courtroom today?

A Yes, sir.

Q Please indicate who he is?

A The one in the white tie.

MR. MICHELMAN: I will concede that he is Raul Ortega.

Q What happened after the telephone call that you had with Segundo Coronel?

A The following day Raul Ortega showed up.

Q Did he say anything to you?

A That he had come to pick up the merchandise, the heroin.

Q What happened then?

A Well, we went to the apartment, Audubon, almost the cornre of 187th, and there I delivered the suitcases to him.

THE COURT: Do you have any idea what day this was?

A According to the conversations and the timing possibly during the month of February, around the 15th or 16th, something like that. That's only approximate.

THE COURT: Go ahead.

Q Did Ortega tell you where he was going to take the heroin?

A He told me he was going to go with the heroin to the house of his brother-in-law Ciro.

Q Did he say where this house was?

A He told me thatthat was in Elizabeth. Previously I had known where that house was. I had been there once with him.

Q Did Ortega leave with the heroin?

A Yes, sir.

Q Did you have any further involvement with this particular shipment of heroin?

A Yes, sir.

Q Tell us about that.

A While he had the heroin and since Segundo was not here in New York Caramian needed the money. A day came when he said he needed to pick up 20 kilos of the heroin he had left.

Q Who said that?

A Caramian.

Q What did you do when Caramian told you that?

A I told that to Segundo.

Q What happened?

A Segundo told me to give him as much as he wanted.

Q What did you do after Segundo told you that?

A He called Raul Ortega.

Q Where did you call him?

A I called him at Elizabeth where he was staying at the house of his brother-in-law.

Q What did you tell him?

A He came to see me.

Q Where did he come to see you?

A To 515 West 197th.

Q Did you have a conversation with him?

A That's correct.

Q What did you say and what did he say?

A I told him that Caramian wanted 20 kilos back because a long time had elapsed and he needed to collect money fast from that merchandise.

So Ortega told me that he was not going to go up and down with the merchandise; that he was already making arrangements for the sale of that heroin, but, nevertheless, he agreed to bring the heroin.

Q Did there come a time when he brought the 20 kilos of heroin?

A Before he brought it I made arrangements with

him, with Carmian, about the time we would meet in the apartment on Audubon Avenue so that Caramian would pick up the heroin that Ortega was bringing in.

Q Could you recall approximately when this meeting was set up for?

A It was about the following day, the day after Ortega was at my home.

Q What happened the next day?

A Well, at the agreed hour Caramian was with me waiting for Ortega to arrive. When Ortega arrived --

THE COURT: Wait, wait.

I gather the assistant was trying to fix the date that Ortega came to the witness' home along to discuss whether he should give any of this heroin.

MR. KAUFMAN: That's correct, your Honor.

THE COURT: What day was that?

What day did Mr. Ortega come to your home in response to your telephone call?

THE WITNESS: Approximately by then it must have been the 20th or the 21st of February. It was a continuous process.

Q Was it the very next day that Ortega and Caramian and yourself met in your apartment?

A Yes, sir.

Q What happened that day?

A Ortega brought a suitcase with 20 kilos. He discussed with Caramian the same thing he had discussed with me, thathe was not going to be stashing and delivering merchandise. He had accepted that merchandise for sale.

So Caramian decided to take ten kilos with the understanding, witht he proposition, that he would sell the balance fast, so Caramian had with him a briefcase. He put the ten kilos inside. The other ten kilos remained inside the suitcase with Raul Ortega and automatically we decided to come down from the apartment.

Q All three of you left the apartment?

A The three of us left the apartment.

Q Was this the Audubon Avenue apartment?

A Audubon, almost on the corner with 198th Street.

Q What happened when you left the apartment?

A In front of the apartment there was a blue Chevrolet with his brother-in-law Ciro inside and he picked up the suitcase and went towards the car, and I escorted Caramian to St. Nicholas Avenue to take a taxi.

Q Do you remember what type of license plates were on the blue Chevrolet you saw?

A Those were New Jersey plates but I do not remember the number.

Q When had you first met Ciro?

A About six or seven months before I saw him in front of my apartment.

Q Who introduced you to Ciro?

A Raul Ortega.

Q Do you see Ciro here in the courtroom today?

A I've seen him twice. I don't know. I think it's that man with the shirt with the two-tone tie.

MR. RICHMAN: Me?

A No.

Q What color shirt is he wearing?

A White.

THE COURT: How many seats in, starting with the man in the blue jacket?

A The third from the wall.

THE COURT: To your left?

THE WITNESS: Yes.

THE COURT: Mr. Reid?

MR. REID: I concede the identification.

Q Did Ortega then begin to sell the heroin?

MR. MICHELMAN: Objection. He's leading the witness.

THE COURT: Sustained.

Q After you turned the heroin over to Mr. Ortega, did you have any further meetings with Mr.Ortega?

A Many.

Q What happened at these meetings?

A He would bring me money, 20, $30,000 until the moment came when Caramian continued to insist he wanted the money. I informed Segundo of the problem that was taking place about Caramian and the money. By then Ortega had given me about $100,000.

Segundo came from Miami to New York and he ordered me to give the $100,000 to Caramian. Caramian was not satisfied with that money so Raul hurried up and brought $40,000 more. Caramian was supposed to leave for Los Angeles, so I gave him the $100,000 first and the $40,000 at the airport together with Segundo on the third day.

Three days after giving him the $100,000 I gave him $40,000.

Q This money that Ortega turned over to you, did he say what the money was from?

A From the sale because he was selling it fast.

Q Do you know if Ortega collected more money

MISS NEIMAN: Yes.

MR. STONE: How about 4 and 5?

MISS NEIMAN: 4 and 5 are other inmates. I haven't the foggiest idea who they are.

MR. STONE: Are 4 and 5 also recorded without their knowledge?

MISS NEIMAN: Yes. I don't see why that is relevant, but yes. The Correction Officer was wearing a tape recorder and whoever happened to be in his way or in his path got recorded.

THE COURT: Bring the jury in.

(Jury present)

THE COURT: Call your witness.

MISS NEIMAN: The government calls Ramiro Gonzalez.

R A M I R O G O N Z A L E Z I N F A N T E ,

called as a witness on behalf of the government, after having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MISS NEIMAN:

Q Mr. Gonzalez, how old are you?

A Thirty-two years old.

Q Have you ever been convicted of a crime?

A Yes.

Q In June of 1968 did you plead guilty in Puerto Rico to possession of a gun?

A Yes.

Q Did you fail to appear for sentence on that charge?

A No.

Q You did not appear; is that what you are saying?

MR. STONE: Objection.

MS. PERLMUTTER: Objection, your Honor.

A No.

MR. STONE: She got one answer and then --

THE COURT: It is perfectly clear there was a misconception on the part of the witness, Mr. Stone. All right.

Q In October, 1970, were you arrested on an indictment which charged you with conspiracy to distribute narcotic drugs and with the actual distribution of narcotic drugs to two federal undercover agents?

A Yes.

Q Did you thereafter jump bail on that case?

A Yes.

Q In February of 1972 were you again arrested in connection with that drug case?

A Yes.

Q And in May of 1972 did you plead guilty to two counts charging you with conspiracy to distribute drugs and the actual distribution of heroin?

A Yes.

MR. STONE: The defendants have indicated they are having trouble hearing the witness.

THE COURT: Please keep your voice up.

MR. HOFFMAN: I told the witness to keep his voice up and he said that since he doesn't know what the attorney is saying he is talking this way.

THE COURT: Tell him to keep his voice up so the defendants can hear him.

Q Mr. Gonzalez, while you were in jail awaiting sentence after your guilty plea, did you speak to a jail guard about attempting to escape from jail?

A Yes.

Q In October 1972 were you sentenced by a federal judge, Judge Mansfield, in this courthouse in connection with your guilty plea?

A Yes.

Q What sentence did you received?

A Ten years for each count running all together.

Q Prior to receiving that sentence and after that

sentence, did you cooperate with the government in connection with violations of the narcotics laws?

MR. MICHELMAN: Objection as to the conclusion.

THE COURT: Overruled.

A Yes.

Q Did there come a time when your attorney filed a motion to reduce your ten year sentence?

A Yes.

Q In November 1973 was that sentence reduced?

A Yes.

Q What was it reduced to?

A Six years.

Q Did the government, to your knowledge, submit any papers in connection with your motion to reduce?

A At that time, no. The government made a report to the judge about my cooperation.

Q Was that the understanding that you had had with the government?

A Yes.

Q Mr. Gonzalez, are you now serving that sentence?

A Yes.

Q And for how long have you been in jail?

A About 25 months.

Q Mr. Gonzalez, do you know Raul Ortega?

A Yes.

Q Would you identify him, please?

MR. MICHELMAN: Counsel will concede that the gentleman sitting in front of me is the defendant Raul Ortega.

THE COURT: To whom the witness pointed.

MR. MICHELMAN: Yes.

Q When did you first meet Raul Ortega?

A Around 1961.

Q Mr. Gonzalez, where were you born?

A In Puerto Padre Oriente, Cuba.

Q When did you first come to the United States?

A Around March, 1969, February or March.

Q Where did you first live?

A In Texas.

Q After that?

A Here in Westbury, Long Island.

Q Did there come a time when you moved to Florida?

A Yes.

Q Approximately when was that?

A Towards the end of 1968, beginning of 1969.

Q Directing your attention to March 1970, did you have a conversation with Raul Ortega about a shipment of heroin?

A Not one, but many.

Q Would you tell us when, approximately, the first conversation took place?

A I am not sure whether it was the 10th or the 11th of March, 1970.

Q Where did that conversation take place?

A In Flagler Street between Tenth and Eleventh Avenues in Miami, Florida.

Q Could you indicate in front of where that conversation took place?

A In front of a jewelry store belonging to Guillermo Taurauri.

Q This is in Florida, Mr. Gonzalez?

A Yes.

Q Would you tell us what Mr. Ortega said to you and what you said to Mr. Ortega?

A With pleasure. He told me that he had the heroin here in New York; if I had clients whom I could sell the heroin to and whether I was willing to share with him the sale of that heroin and the participation would be 50/50 in that business.

Q What did you say to Mr. Ortega?

A I told him yes.

Q At that time did he tell you how much heroin

he had?

A Yes.

Q What did he tell you?

A That he had 45 kilos of pure heroin.

Q Did he agree to go anywhere with Mr. Ortega during that conversation?

A Yes.

Q Would you tell us what you agreed to do?

A First of all, he gave me $300 to buy a sealing machine to seal the plastic bags and to buy the airplane ticket to come to Newark.

Q Did you buy a sealing machine and plastic bags?

A Yes.

Q Did you go to the airport that day?

A Yes.

Q Did you meet Mr. Ortega?

A Yes.

Q Where did you fly to?

A Newark, New Jersey.

Q Did you have a conversation on the plane with Mr. Ortega regarding the 45 kilo shipment of heroin?

A Yes.

Q Would you tell us what he told you?

A He told me that the day before he had been here in New Jersey and in New York and that previously he had already sold three kilos to Messrs. Luis Reyes and Jorge Infiesta.

Q Do you know who Mr. Infiesta was?

A Yes.

Q Would you identify him, please?

A Yes, the gentleman in the glasses who just stood up.

MR. O'CONNOR: I concede the identification.

THE COURT: Go ahead.

Q Did you know who Mr. Reyes was at that time?

A Yes.

Q When had you first met Mr. Infiesta?

A At about the same time I met Mr. Ortega for the first time, in 1961.

Q When had you first met Mr Luis Reyes?

A About a year prior to that here in New York.

Q Who had introduced you to Mr. Reyes?

A I knew him from 1961, since 1961, but Raul Ortega took me to his home when we arrived here in New York.

Q Were you speaking about Mr. Infiesta or Mr. Reyes when you just answered that question?

morning?

A Yes.

Q Where did you go?

A We went to the house of the sister and brother-in-law.

Q Where was that house located?

A At 38 Rankin Street, Elizabeth, New Jersey.

Q Had you ever been to that house before?

A No, sir.

Q Who was there when you arrived?

A His sister, his brother-in-law and their was a girl who was their daugnter.

Q Had you ever met Mr. Ortega's sister before?

A No, sir.

Q Had you ever met Mr. Ortega's brother before?

A No, sir.

Q Will you tell us what their names are, please?

A I knew them as Ciro Rodriguez and she as Francisca Rodriguez, but she was called Paca.

Q Would you please identify Francisca, Paca?

A Yes, the lady on the right with the flowered print dress next to the --

MR. REID: The identification is conceded.

Q Will you please identify Mr. Rodriguez?

A The third man from the right.

MR. REID: I concede the identification.

Q Describe the house at 38 Rankin Street, please?

A Yes.

Q Would you do that?

A It is a two-story high house. The entrance to that house was on the back and as you enter the house the first thing was a small corridor, then a kitchen, then there was a dining room. There was a table there. I assume it was the dining room. To the left there was a door taking you to a bathroom and to both sides of that door there was a room. In front the dining room was the living and to the left there was a door leading to a small corridor with a very large closet, almost a small room.

Q Did Mr. Ortega show anything to you at 38 Rankin Street on this day?

A Yes.

Q Tell us what he did.

A He took out two dark suitcases. He opened them. He showed me a certain amount of heroin and he asked me whether, had I ever seen in my life such a large amount of heroin.

Q Where were those two suitcases?

A In the closet.

Q Were either Francisca Ortega or Ciro Rodriguez with you when Ortega was showingyou the two suitcases?

A Ciro was there and Francisca was in the kitchen making coffee or something like that.

Q Did Mr. Ortega tell you whether or not the entire 45 kilos was in those two suitcases?

A No.

Q What did he tell you, if anything, about that?

A He told me that part of the heroin was in another address close by.

Q Did there come a time that day when you left 38 Rankin Street?

A Yes.

Q Where did you go?

A Here to New York.

Q Who went with you?

A Raul Ortega.

Q What did you do when you got to New York?

A First of all we went to my aunt's house.

Q Where was that?

A 615 West 136th Street, apartment No. 5.

Q Did you go anywhere after you left your aunt's house?

A Yes.

Q Where did you go?

A We went to Jorge Infiesta's house.

Q Tell us where that house was, Mr. Gonzalez.

A 666 West 162nd Street. The apartment was D2 or D something but I remember it was on the second floor.

Q Did you see Mr. Infiesta there?

A Yes.

Q Was Mr. Ortega also there?

A Yes.

Q Did you have a conversation with Mr. Infiesta?

A Yes.

Q Tell us what he said to you and what you said to him.

A We spoke about the heroin. During a short aside he spoke to me so that I would intercede with Mr. Ortega and try to influence him so that Mr. Ortega would give him a lower price and better quality.

Q What did you say to Mr. Infiesta?

A That I was going to try but that Raul was the owner.

Q Did you go anywhere after you were at Mr. Infiesta's house?

A Yes.

Q Where did you go?

A We went to two or three bars and we went by Mr. Joaquin Prada's gas station.

Q Did you go anywhere after that?

A After that we went to the Bar El Torero.

Q After that did you go anywhere?

A Yes.

Q Where?

A After that tour I went to Westbury, Long Island.

Q Where did you go in Westbury, Long Island?

A To Miguel Rodriguez's house.

Q How long at that time had you known Miguel Rodriguez?

A About five or six years.

Q Did you see Mr. Rodriguez?

A Yes.

Q Would you tell us what you said to him and what he said to you?

A Yes.

Q Please tell us.

A I spoke to Mr. Rodriguez about the amount of heroin we had. Miguel told me that a few days before he had had a conversation with Mike Safiori or Sifiori -- I don't know how to pronounce it.

Q What did he tell you about the conversation?

A He told me that the Italian was interested in buying heroin from him.

Q What did you tell Mr. Rodriguez?

A To get in touch with the Italian man and that we thought there would be no problem with that Italian man because we knew him for a year or longer.

Q By that Italian man you mean Mr. Sifiori or Safiori?

A Yes.

A Yes.

Q Do you recall approximately when that was?

A I cannot say exactly. I think it was approximately a few days later, but I cannot say what the date was.

Q After you delivered the second kilogram to Frank and Tommy, did you meet with them any more?

A Yes.

Q And on how many occasions, if you recall?

A I cannot say with any degree of exactitude, but three or four times.

Q Did you deliver any more heroin to them?

A No. We only sold them two kilos.

Q Mr. Gonzalez, during what time period did you distribute the 45 kilogram shipment of heroin?

MR. MICHELMAN: Objection. There is no testimony here that he distributed 45 kilograms.

THE COURT: Sustained.

Q Did you distribute the 45 kilograms of heroin?

MR. MICHELMAN: Objection. He is leading the witness.

THE WITNESS: Overruled.

Q Did you distribute or participate in distributing a 45 kilogram shipment of heroin that you have been

testifying about?

A Not all of it, but in its great majority, most all of it.

Q From when to when did you distribute these drugs?

A Between March, April and May,more or less that time. I cannot say with precision when was the last time I distributed heroin.

Q Did you collect money from the sale of this heroin?

A Yes.

Q Do you recall when the last time was that you collected any money?

A I remember that about the 19th and 21st of July, the last collection took place.

MR. STONE: Objection, outside the period of the conspiracy.

THE COURT: Denied.

Q This is 1970, is that correct?

A Yes.

Q Were you in New York during this entire time period, March 11 until July 20, 1970?

A We made several trips to Miami.

Q And by "we", who do you mean ?

A I don't remember the times of day exactly, but I remember having taken the money with him.

Q Will you tell us what happened?

A He and I took the money to an address around 187th Street. We used to park the car in front of the building. He would go inside by himself to deliver the money.

Q Did he ever tell you to whom he was delivering the money?

A Yes.

Q What did he say?

A He told me that he was delivering the money to Mr. Roberto Arenas.

Q Did you ever meet Roberto Arenas during this time period?

A No.

Q Mr. Gonzalez, going back to the first week after March 12, 1970, could you tell us who you spoke to during this week about this shipment of heroin?

A One of the first people I spoke with was Mr. Charles Busigo, with Mr. Domingo Del Cristo and later on I spoke again with the man I know as Lazarito. I also spoke with Jose Otero, Pepe Otero.

Q Mr. Gonzalez, before you mentioned that you

THE COURT: How many kilos?

THE WITNESS: Seven kilos, your Honor.

THE COURT: How did it get there?

THE WITNESS: Ortega and I brought it there.

MS. PERLMUTTER: I didn't get the date.

MR. FRANKEL: The 13th.

THE COURT: Early in the morning of March 13th.

Q Who was present at Mr. Infiesta's apartment when you brought that heroin there?

A Jorge Infiesta, Raul and myself, and a few minutes later Luis Reyes arrived and after that Miguel Rodriguez arrived.

Q Would you tell us what you did in Mr. Infiesta's apartment?

A We mixed the heroin and out of the seven kilos we made eight kilos and about nine ounces.

Q Will you tell us what happened to those eight kilos and nine ounces?

A Raul Ortega took seven kilos with him and told me that he had to deliver them to Mr. Roberto Arenas. The next kilo was sold right there to Mr. Jorge Infiesta and Mr. Reyes, and in order not to keep it in the house they put it in a black car that was parked in front of Jorge's house. The remaining ounces Raul took them back with him to New Jersey.

par5 Gonzalez-direct

Q Do you remember how much money you collected from Mr. Reyes altogether during this time period?

A No.

Q Mr. Gonzalez, do you know Hector Echevarria?

A Yes.

Q Wouldyou identify him, please?

A The man with the glasses sitting over there.

MR. MITCHELL: Indicating the defendant Echevarria.

Q Did there come a time when you spoke to Mr. Miguel Rodriguez about Mr. Echevarria?

A Yes.

Q Do you remember when that first was?

A Yes.

Q When was that?

A On March 13, in the morning.

Q What did Mr. Rodriguez tell you?

A That he had spoken with Mr. Echevarria and that Mr. Echevarria told him he had money to buy half a kilo of heroin for cash.

Q Did there come a time when you went with Mr. Rodriguez to deliver this half kilo of heroin?

A Yes, sir.

Q Do you remember when that was?

A It was the same day, March 13, at night.

Q Was that before or after the sale of the one kilo to Frankie and Tommy?

A Afterwards.

Q Will you tell how that delivery was made?

A Yes.

Miguel and I went by car. We took the half a kilo with us. We went to an address at 184th and Audubon Avenue. We parked our car in front of a supermarket. Miguel got out of the car with half a kilo in a paper bag and went inside the supermarket. I saw Mr. Echevarria come out of the supermarket, that all this time inside the car.

After a half an hour or 45 minutes when I didn't see Mr. Echevarria return or Miguel come out, I went inside the supermarket. Miguel told me that Hector had told him that he would be back in four or five minutes with the money; that he had gone to his home and he lived very close by and Hector had not returned.

We waited for a while longer and he did not return.

The next time I saw Mr. Hector Echevarria was about a week later.

Mr. Cusigo introduced me to him. We ran

into him and spoke about the payments and how the payments were going to be made.

Q Tell me where you, Mr. Echevarria, and Mr. Cusigo met?

A Yes.

We ran into each other at the bar of the Gallo de Maron. We sat at a table.

MS. PERLMUTTER: May we have the date and time?

THE COURT: He said about a week later.

MS. PERLMUTTER: The time?

Q Do you recall the time of day, Mr. Gonzalez?

A No, I know it was at night but I cannot say or commit myself to a time.

Q Tell us what the conversation was.

A Charlie told me that Mr. Echevarria had worked for him for a long time selling drugs and thathe had made a lot of money with Mr. Echevarria.

MR. MITCHELL: I will object to this, your Honor. It's not relevant to this conspiracy.

THE COURT: Overruled.

A And Charlie told me that the property and the papers of the supermarket for Mr. Echevarria were in Charlie's possession and he asked me to give Mr. Echevarria

a chance to pay his account and thathe would assume the responsibility in case Mr. Echevarria should not pay his debt he would pay it to me.

Q Please identify the person you refer to as Charlie Cusido.

MS. PERMUTTER: I had conceded.

Q Did there come a time when Mr. Echevarria gave you any money?

A Yes.

Q Tell us what happened that day. First try to pin a time down on that.

A I cannot say with any certainty what date it was but it was seven or eight days, about that after that conversation.

Q After the conversation at the Gallo de Maron Bar?

A Yes, sir.

Q Would you tell us where you went and what happened?

A I had another conversation with Mr. Charlie and I tried to tell him that he had told me, I told him, that he had --

MS. PERLMUTTER: May we have a date and time on that?

THE COURT: He said about a week later.

MS. PERLMUTTER: The time, your Honor.

Q Do you know what time of day this conversation took place that you are narrating?

A No. But it was at night.

Q Would you continue telling us what you said to Mr. Cusigo?

Incidentally, do you know his full name?

A I know him as Charlie Cusigo-Cifre.

Q You were telling us what you said to Mr. Cifre about the debt. Continue.

A I told him that he has assumed the responsibility to pay the money that Mr. Echevarria owed.

He tried to find some excused to give me to understand that by this time he was nor ready to pay for this money.

MS. PERLMUTTER: I object to this. Those are not statements but conclusions.

THE COURT: To the best of your ability can you tell us what he said exactly?

A He told me exactly what I said before because he himself was not precise, he was not saying that in any precise way. He was trying to insinuate, to let me understand --

MS. PERLMUTTER: I object. I don't think it's responsive.

THE COURT: Overruled.

A That he was not ready to assume responsibility for that debt, but he did agree to go together with me to the supermarket to see Mr.Echevarria.

Q Did you go there?

A Yes.

Q Would you tell us what happened?

A Hector Echevarria was there with his wife. We spoke about the debt and Mr. Echevarria's wife said she could go out and look for some money and she could be back in four or five minutes.

She came back in the time she mentioned. She did it very fast. She brought back a paper bag full of money, bills. I told her that with that we were more or less even because there was a huge and exaggerated amount of bills in that package.

Q Was Mr. Echevarria also present on this occasion?

A Of course.

Q Where did you go after you left the supermarket?

A To the Bar El Torero.

Q With whom did you go?

A With Mr. Charlie Cusigo.

Q What happened at that bar?

A I gave the money to be counted to a guy by the name of Manola Caballito. When he counted the money Charlie and I were sitting at a table having a drink and the guy came to us laughing saying what we have got in that bag was just garbage.

There were about 1200 to 1300 dollars all in one dollar bills.

Q Mr. Gonzalez, did you ever receive any more money from Hector Echevarria?

A No, sir.

Q Did you ever speak to Mr. Echevarria about any payments he made in connection with the half kilo of heroin?

A Yes.

Q Would you tell us what he said to you?

MR. MITCHELL: When? Your Honor --

THE COURT: We will pick it up. If she tries to do it the other way you say she is leading. We'll go through this way and when we're all through with the discussion and we have not had the date and time we'll get it for you.

MISS NEIMAN: May we approach the side bar

as to the time and place in connection with these answers, in connection with the converstaion he's about to give us, your Honor?

THE COURT: All right.

(At the side bar)

MISS NEIMAN: I'm sorry for the interruption. This conversation took place between Mr. Echevarria and Mr. Gonzales in West Street and I don't want to elicit --

MR. MITCHELL: When was the time?

MISS NEIMAN: He will tell you when the time was.

THE COURT: Are you going to insist on where?

MR. MITCHELL: No, your Honor.

MR. STONE: He continually answers these questions "No, sir" and I think some ofthe gentlemen --

THE COURT: It happened yesterday with Arenas answering her questions.

Q Mr. Gonzalez, would you just first answer the question as to when the conversation took place between you and Mr. Echevarria?

A Which of the conversations are you referring to, since four or five questions have been asked to me about Mr. Echevarria?

Q I had asked you whether Mr. Echevarria spoke to you about any payment that he had made in connection with this half kilo of heroin.

A Mr. Echevarria told me that he had made an arrangement, an agreement with Mr. Miguel Rodriguez so that he would set bail for Mr. Carlos Tapanes.

Q Do you remember when this conversation took place between you and Mr. Echevarria?

A I do not remember exactly.

MR. MITCHELL: May we approach the bench?

THE COURT: Yes.

(At the side bar)

MR. MITCHELL: As I understand it, this conversation took place at West Street in 1972. That is beyond the conspiracy. It is beyond the point where they are arrested and I don't think it is binding on the defendant Echevarria.

THE COURT: Why? It may not be binding on

the rest but if he admits a statement --

MR. MITCHELL: He is not going to admit it.

MISS NEIMAN: It is offered as an admission against Echevarria.

MR. MITCHELL: You can do it simply by asking him wasn't it in 1972, but you know as a fact --

MISS NEIMAN: It doesn't matter.

MR. MITCHELL: I think it does matter.

THE COURT: I will assume it was in 1972, for the record, and that the defendant Echevarria admitted to the witness on the stand that he paid off his bills by putting up the bail for Tapanes.

MR. MITCHELL: Just to protect the record, would your Honor instruct the jury it is not binding on anybody else?

THE COURT: Okay.

MR. MITCHELL: I want to limit it for a reason.

(In open court)

THE COURT: Ladies and gentlemen of the jury, this last statement which you heard to the effect that the witness testified that Mr. Echevarria told him that he had paid off his bills by putting up the bail for Tapanes is only binding on Mr. Echevarria and none of the other defendants in the lawsuit.

Q When did you first speak to Mr. Charles Busigo-Cifre about this shipment of heroin?

A On March 12th, 1970.

Q Do you recall where you were when you first spoke with him?

A Yes.

Q Where?

A At Joaquin Prada's gas station.

Q Will you tell us what the conversation was, please?

A I told him I had the heroin; that I knew he was in the drug business and that I could give him a reasonable price and perhaps a better quality than what he would be able to get.

Q What did he say to you, if anything?

A He told me that we would meet later on at the bar, El Gallo De Maron, but in that first conversation he didn't make any decisions. He didn't say yes or no.

Q Did you see Mr. Cifre again?

MS. PERLMUTTER: May we have the time of the day?

THE COURT: Yes.

Q Do you recall what time of day it was that you met with Mr. Cifre at Prada's gas station?

A No.

Q Did you see him again?

A Yes.

Q Where did you see him again?

A At the Bar, El Gallo De Maron.

THE COURT: That same day?

THE WITNESS: Yes.

Q Do you recall what your discussion was with him at that time?

A Yes. We spoke about the heroin. We spoke about the price, the quality. He told me that he could get it for a lower price. He told me that if I would sell it to him at $18,000 a kilo he was willing to buy from me. I agreed to the price thinking that he was going to buy a really substantial amount.

Q Did you agree to see Mr. Cifre again?

A Yes.

Q First tell us when.

A First of all, he told me the amount of heroin he wanted to purchase.

Q What was that amount?

A Half a kilo.

Q When did you see him after your conversation at the El Gallo De Maron Bar?

A We agreed to meet the following day and he was going to show us a man who was the man who would later on pick up the half a kilo.

Q Did you see Mr. Cifre the following day, March 13, 1970?

A Yes.

Q First, would you tell us where you saw him?

A At the bar that is across from Prada's gas station, across the street to the left.

Q Do you recall what time of day this was?

A It was in the afternoon, but I do not recall the time exactly.

Q Was it before or after the sale of the one kilo to the federal agents, Frankie and Tommy?

A Afterwards.

Q Would you tell us who was present?

A Yes, Miguel, Mr. Charles Busigo, Joaquin Prada was present and myself.

Q Would you tell us what the conversation was at that time?

A The only thing we spoke about was that the bar had a glass front, a large window, and he showed us on the sidewalk the man who was supposed to pick up the heroin. He also spoke how how payments would be effected.

Q Did there come a time when you delivered a half a kilo of heroin to that person who was across the street?

A Yes.

Q When was that?

A That same day, after we made the sale to the two Italians.

Q Where was that?

A We delivered it. When you turn the corner from Prada's gas station there is a street and in the corner --

MS. PERLMUTTER: He said "we." I would like to know who "we" is.

THECOURT: "There is a street and in the corner" is the last thing I heard.

MS. PERLMUTTER: I heard "We delivered it," your Honor.

THE COURT: No, he hasn't gotten there yet.

MR. HOFFMAN: Would you repeat the question, please?

Q Who delivered this half kilo of heroin?

A Miguel and I and I was the one who consigned the package.

Q By "consigned," do you mean handed it over?

A Yes.

Q And where was this done?

A When you return in the corner on the street -- it is around 165th, but I'm not sure.

Q Around the corner from the gas station?

A Yes, in the corner of the gas station.

Q Would you tell us whether this delivery was made before or after you went from the gas station back to Mr. Infiesta's apartment to distribute the money from the sale to the agents?

A This was after that.

Q At that time, did you know the name of the person to whom you delivered the half kilo?

A No.

Q Did you see that person after that day?

A Yes.

Q Did there come a time when you learned that person's name?

A Yes.

Q What was that person's name?

A Oasis Valido.

Q Did Mr. Cifre pay for this half kilogram of heroin?

A Yes.

Q In what manner did he make those payments?

A In two installments.

Q Would you tell us how he paid those two installments?

A For about two days I did not see him. I told Joaquin Prada, since he used to frequent the gas station, to tell him that he should try to see me to pay me the money or he should leave the money with him.

Q Did you ever get any money from Mr. Prada?

A No. No, I received the money from Miguel. Miguel gave me -- Miguel told me that Prada had given $3,000 to him and Miguel gave it to me.

Q What about the other $6,000?

A The following day Mr. Charles Busigo gave them to me at the bar, El Gallo De Maron.

Q Did you ever speak to Mr. Cifre again about buying more heroin?

A Yes.

Q Do you recall when in time you spoke to him?

A I don't remember the time of day or the day, but it was around those days.

Q Where did you first speak to him?

A After that, we used to speak about it continuously, almost every day in all those bars.

Q Did there come a time when you reached an agreement or arrangement with Mr. Cifre?

A Yes.

Q Would you tell us where you reached such an agreement and when?

A Yes. In his own house we reached an agreement and he gave me $7,000. I told him that I needed that money to give it to Raul because Raul had to complete a certain sum of money and he gave me $7,000.

Q You mean he gave it to you in advance; is that what you are saying?

A Yes.

Q How much heroin did you agree to sell to Mr. Cifre?

A At that time half a kilo more .

Q Did you make arrangements regarding the delivery of that half a kilo?

A We made arrangements but they did not take part in the delivery. An agreement was made --

Q Please keep your voice up, Mr. Gonzalez, so everyone can hear you.

A The agreement was made that they did not take part in the delivery of the heroin. The heroin was delivered by Miguel.

Q Did Miguel tell you where the heroin was delivered?

A Yes.

Q What did he tell you?

A Miguel told me that he had delivered it to the same person in front of the building where Joaquin Prada used to live.

Q Did Mr. Cifre pay you the remaining $2,000?

A Yes.

Q Where did he do that?

A At my aunt's home.

MS. PERLMUTTER: May I have a date and a time?

THE COURT: Yes.

Q Do you recall the day that Mr. Cifre delivered the remaining $2,000?

A It is impossible for me to remember those dates.

Q Do you know Mr. Domingo Del Cristo?

A Yes.

Q When did you first meet Mr. Del Cristo?

A I met him about a few months before that time.

THE COURT: What time?

THE WITNESS: The time around March when we are discussing this heroin.

Q Will you identify him, please?

A Yes (indicating). The man with the hand in his mouth.

MR. RICHMAN: I concede the identification.

Q Did there come a time when you discussed this shipment of heroin with Domingo Del Cristo?

A Yes.

Q Would you tell us when this was?

A It was in March 12th in the back of the parking lot at Joaquin Prada's gas station.

Q Would you tell us if you recall what time of day this was?

A I do not remember the time.

Q Who else was present?

A There was a man there by the name of Jose Delgado, himself and myself. Miguel was at a short distance from us and it seems that prior to that Miguel had spoke with him about it.

MR. RICHMAN: I object to what Miguel may have said to Mr. Del Cristo.

THE COURT: He didn't say what he said.

MR. RICHMAN: He said prior to that Miguel had

spoken to him.

THE COURT: Your objection was as to what he said to him. He didn't say what he said to him.

Q Did Mr. Del Cristo tell you that he had spoken to Miguel or did Miguel tell you that he had spoke to Mr. Del Cristo?

A No, Miguel told me that he had spoken with Domingo Del Cristo.

Q Incidentally, Mr. Gonzalez, what connection did Mr. Delgado have with the gas station?

A He said that part of the gas station belonged to him and part to Joaquin Prada.

Q Will you tell us what the conversation was between you, Mr. Del Cristo and Delgado with respect to this shipment of heroin?

A Mr. Delgado took no part in the conversation about heroin. Mr. Del Cristo and I did speak about it and there came a moment when Miguel joined us.

Q What was the conversation?

A Miguel was the one who told me that Domingo Del Cristo was interested in buying half a kilo of heroin and I told him that if he had the money that would be all right. Miguel told me that that was not the case; that he would have to give him the heroin and

wait for two days for the payment but that he didn't think there would be any problem with it.

Q Did you make any arrangements during this conversation for the delivery of any heroin?

A Yes.

MR. RICHMAN: Your Honor, I object to this entire line of questioning insofar as it refers to the defendant Del Cristo on the grounds that it is pure hearsay and that he is referring to a Miguel who I assume will be identified later as having allegedly handled the transaction with defendant Del Cristo.

Now, unless he can tell us that he had handled the transaction directly with Del Cristo, I maintain that anything else is certainly not binding on my client, pure hearsay and ought tobe stricken from the record, if it please the Court.

She can ask him "Did you sell him?" It is as simple as that. And "Did he pay?"

THE COURT: I'm sorry. The government is not limited to just asking that question. As you well know, hearsay statements come in in a conspiracy case in certain situations. Both Miguel whom everybody knows is Rodriguez, Mr. Richman, and the witness and your client are named as co-conspirators.

MR. RICHMAN: I appreciate that, your Honor, but we would like to get the story from this witness: Did he sell any heroin to Del Cristo.

THE COURT: You can ask him that on cross-examination, if you wish.

MR. RICHMAN: Certainly he knows best. He was there. I wasn't.

THE COURT: You can't tell the assistant how she should ask her questions.

MR. RICHMAN: I don't propose to do that.

THE COURT: You certainly do and I am overruling your objection.

MR. RICHMAN: Exception.

Q Mr. Gonzalez, have you in the last few minutes been relating a conversation between you and Mr. Rodriguez and Mr. Del Cristo in the parking lot of Joaquin Prada's gas station?

A Yes.

Q Did you, Mr. Del Cristo and Mr. Rodriguez arrange for the delivery of half a kilogram of heroin?

A Yes.

Q What were those arrangements?

A We agreed to deliver it the following day. We made all the arrangements for the delivery of half a

kilo and we coordinated everything so that within two or three minutes we would make both deliveries, that is, the heroin that we had sold to Mr. Busigo and the heroin that we would sell to Mr. Del Cristo.

Q On the following day, March 13th, did you deliver a half a kilogram of heroin to Mr. Del Cristo?

A Yes.

Q Would you tell us how that delivery took place?

A Yes. First of all, we delivered half a kilo of heroin to the man that now I know by the name of Oasis Valido. That was in the corner on the street to the side of Prada's gas station. We went into the parking lot of the gas station and we parked in front of a driveway that leads to the back of the gas station. Miguel got off the car and gave the package to Domingo Del Cristo in the driveway.

Q Can you tell us when in relation to this delivery was the delivery made to Mr. Echevarria in the grocery store?

A From there we went directly to Mr. Echevarria's supermarket.

Q Did there come a time when Mr. Del Cristo paid for this half kilo of heroin?

A Yes.

Q Will you tell us in what manner he paid?

A Mr. Domingo Del Cristo had many problems to pay us, but he would make sporadic payments to Miguel, $600 one day, $700 another day, until the time came when his debt was $1800. I spoke with him and I told him that it had taken him a long time and I needed that money because the money was not mine. That conversation took place at the bar, El Gallo de Maron. And Raul Ortega was there, Roberto Lopez was there, Miguel, and myself.

Q Was Mr. Del Cristo there?

A Yes.

Q Would you tell us whta the rest of the conversation was?

A Mr. Del Cristo was trying to obtain an additional half kilo of heroin but I did not want to --

Q What was the conversation?

A So Miguel spoke to Raul.

Raul called me aside to the men's room and he told me that Domingo Del Cristo was a friend of his for many years and that they had dealings on other occasions

par2 Gonzalez-direct

and Mr. Del Cristo had paid his share, so since Raul was the owner, he authorized Miguel to give Del Cristo a half kilo of heroin.

Q Was any money paid to you at that meeting at the Gallo de Maron Bar?

A YEs,sir.

Q Tell us who paid thatmoney to you.

A Mr. Roberto Lopez and Domingo Del Cristo used to work as partners sometimes. Roberto called me and told me so there would be no more talking about the money that he himself from his own personal money was going to give me the $1800.

He went into a small office inthe back of the bar with the owner of the bar. He came back with the money and gave it to me in front of everybody else.

MR. RICHMAN: Your Honor, who is the "he" referred to in the last answer?

THE COURT: Lopez.

MR. RICHMAN: Thank you.

Q Do you know whether or not Mr. Rodriguez delivered the second half kilo to Domingo Del Cristo?

A Yes.

Q How do you know whether he did or not?

A Because Miguel told me so and Raul told me.

Q Mr. Gonzalez, do you know an individual by the name of Armando El Chino?

A Yes.

Q Do you know that person's true or full name?

A No.

Q Would you identify him, please?

A Yes.

MR. FRANKEL: Identification is conceded.

Q Tell us how you met Armando El Chino?

A For the first time?

Q Yes.

A Hugo Americano introduced him to me.

Q Please identify Hugo Americano.

MR. JACOBS: I concede the identification, your Honor.

Q When was Mr. El Chino introduced to you by Hugo Americano?

A I don't remember exactly the date but it was about one or two days after we made the first dealings.

Q Do you mean the March 12 and March 13 deals?

A Those transactions that took place on March 13.

MR. FRANKEL: Not with this defendant?

THE COURT: That's not the question.

Q Tell us how Mr. Hugo Americano introduced you to Mr. El Chino, how it came about. Tell us how it came about that Hugo Americano introducedvou to El Chino.

A I had met Hugo Americano a few months before and he told me that Armando El Chino was a friend of his and that they had heard that I had heroin and that El Chino wanted -- that he was interested in buying heroin.

Q Where were you when Mr. Hugo Americano told you this?

A At Prada's Gas Station.

Q Continue with the conversation.

A He gave me an appointment at the Hotel Alamac on Broadway and 70th or 71st.

MR. JACOBS: Can we establish who "he" is?

Q Who made the appointment?

A Hugo.

Q Did you go to the Alamac Hotel or Bar to keep that appointment?

A We went.

Q Who went?

A Miguel and myself, and when we arrived both of them were seated at the table.

Q By "both of them," who are you referring to?

pgr5 Gonzalez-direct

A To Mr. Armando El Chino and Hugo Americano.

Q Do you recall whether this was in the daytime or afternoon or evening?

A By night.

Q Will you tell us what the conversation was?

A We spoke about heroin, that they were interested in buying heroin. They inquired about the quality.

MR. JACOBS: Could we find out who said what and not "they said"?

THE COURT: Yes.

Q Mr. Gonzalez, as best as you can, indicate who said what during this conversation.

A Armando Chino asked me what the quality of the heroin was and what price could I offer them.

Q What did you tell him?

A I told him $20,000 a kilo.

Q Did you make any arrangements that day to delivery any heroin?

A Yes.

Q Where were those arrangements made? Were they made at the Alamac Bar?

MR. MICHELMAN: Objection. She is asking questions and giving him the answers?

THE COURT: Sustained.

pgr6 Gonzalez-direct

Q Where were the arrangements made?

A At the bar at the Hotel Alamac.

Q What were the arrangements?

MR. JACOBS: Can we find out who was present when the arrangements were made?

Q Who was present, Mr. Gonzalez?

A Armando Chino, Hugo Americano, Miguel Rodriguez and myself.

Q What were the arrangements?

A We agreed to sell them one kilo of heroin for $20,000.

MR. JACOBS: Again, your Honor, "We agreed to sell them."

THE COURT: I think it's perfectly obvious: Rodriguez and he agreed to sell El Chino and Viera $20,000.

MR. JACOBS: Somebody spoke. We are entitled to the conversation.

THE COURT: So far he said El Chino asked what the price would be and the witness said he quoted $20,000 a kilo.

MR. JACOBS: Who said what?

Q What arrangements were made for delivering that one kilo and try to tell us who said what.

no need for that man to come. He told me that the man worked for him and that he had to give him a kilo of that heroin.

Q Did you deliver the heroin, the two kilos, to anyone?

A Yes.

Q To whom?

A To El Chino.

Q Where was Mr. Hugo the Americano when you made that delivery?

A Right there in the living room in the house.

Q Incidentally, did anyone else come to that apartment on that same day?

A Yes.

Q Who was that?

A Luis Despaines.

Q What was he doing there on that day?

A He came to pick up a kilo of heroin that I was going to give to him, but he did not get to the apartment. I gave it to him at the door.

Q Had you sold that kilogram to anyone?

A Yes.

Q To whom?

A To Lazarito.

Q Will you identify Lazarito, please?

A The gentleman with the red jacket, that guy (indicating).

MR. STONE: Stipulated.

Q After the delivery of the two kilograms of heroin, did you speak to El Chino again about any other deliveries of heroin?

A Yes.

Q Do you recall when this was in relation to the two kilo deliveries?

A Yes.

Q When was that in relation to that?

A I can't fix the exact date when it was, but it was about seven or eight days later.

Q Where did you speak to Armando El Chino?

A He would take money to my aunt's house continuously and there we would have a chance to talk.

Q Will you tell us what your conversation with Armando El Chino was in connection with another purchase of heroin?

A Yes. He spoke to me again, that he needed another kilo right then. I told him okay. We agreed to make the delivery in the same way at Hugo the American's house.

I submit the jury should be instructed this is the same transaction and not another one.

MR. FRANK: And repetitious.

MISS NEIMAN: It is the same transaction. We were talking about Armando El Chino and Mr. Gonzalez indicated that he had given one of the three kilograms away. This deals with Figueroa now. He gave one to Despaines before.

THE COURT: I'll let it in.

Q Did you personally collect any money from Lazarito?

A Yes.

Q Where did you collect the money?

A At the 005 Bar.

Q Do you know an individual by the name of Jose Otero?

A Yes.

Q Do you know him by any other name?

A Yes.

Q When did you first meet Mr. Otero?

A Towards the end of 1968, beginning of '69.

MISS NEIMAN: Your Honor, I don't recall if the witness has as yet identified Mr. Otero.

Mr. Gonzalez, identify him.

Q Mr. Gonzalez, identify the defendant Otero.

MR. STONE: Stipulated.

Q Did there come a time when you had a discussion with Mr. Otero about this shipment?

A Yes.

Q When was this conversation, if you can recall?

A It was during March but I don't remember the date.

Q Where was the conversation?

A At the bar El Gallo De Maron.

Q Do you recall whether anybody else was present?

A Yes.

Q Who else was present?

A Miguel Rodriguez and myself and --

MR. STONE: Objection, your Honor. There is no question.

MISS NEIMAN: He is finishing the answer as to who was there.

A And another man, a fat man by the name of Garcia.

Q Tell us what the conversation was, please?

A That he knew I had heroin and he wanted me to furnish him some and I told him yes.

Q Did you make any arrangements to deliver heroin

to him during this conversation?

A Yes.

Q What were those arrangements?

A To sell him a kilo of heroin for a special price, $17,000; that we would deliver it the following day at night in front of the Cuba Bar on the corner. He would double park at the corner and Miguel would deliver the package to him.

Q Did you go to the Cuba Bar the following day?

A We went. I went with him.

Q Who went?

A Pepe Otero and myself.

Q Were you inside the Cuba Bar?

A Yes.

Q Was anyone else with you at that time?

A Yes. Raul Ortega.

Q Do you remember what time of day that was?

A It was at night, but I don't remember what happened.

Q What happened at that bar?

A Yes.

We had agreed on the precise time when Miguel would arrive with the package.

Mr. Ortero had another man inside the car.

Raul Ortega, Mr. Otero and myself had a drink waiting for the time to come. Afterwards Mr. Otero went out and according to that Miguel told me he went around the block, double parked again, and Miguel passed him the package through the car window.

Q Were you able to see the car, Mr. Otero's car, at any point during this time?

A Yes.

Q What did you see when you were in the Cuba Bar?

A I saw the car.

Q Did you see Mr. Rodriguez or Mr. Rodriguez' car?

A Yes. And afterwards Miguel came inside the bar and joined us.

Q Did you collect any money from Mr. Otero?

A Yes.

Q Do you recall where you collected that money?

A Yes.

Q Tell us where.

A He gave me personally at my aunt's house $10,000, with Mr. Garcia, the man who had participated in the conversation at the Bar Gallo De Maron. He sent me the remaining $7,000 to Miami.

Q Do you remember when Mr. Garcia brought you that $7,000?

A A few days later but I don't remember exactly.

MR. STONE: I move that be stricken. There is no Mr. Garcia, a co-conspirator.

THE COURT: Overruled.

Q Did there ever come a time in March of April of 1970 when you went to the New Jersey Motor Vehicle Bureau?

A Yes. I went to the Motor Vehicle Bureau in Elizabeth, New Jersey.

Q Do you remember what that was?

Q No.

Q Who else was with you, if anyone?

THE COURT: Let's get an approximate time. He could have gone in December.

Q Did you go during March of April?

A March or April but I cannot say exactly which of the two months.

Q Who went to the Motor Vehicle Bureau with you?

A Miguel Rodriguez, Raul Ortega, and myself.

Q What did you do at the Motor Vehicle Bureau?

A We registered two cars.

A That was about close to 110th Street and Broadway. I do not remember now exactly where it was.

Q Did you go in a car?

A Yes.

Q What happened when you got to that location?

A Raul told me that he was going to pick up some money there. He got out of the car alone and went inside and came back with a package.

MR. REID: May we fix a time?

Q Do you recallthe time, Mr. Gonzalez?

A No.

Q Do you know which month it was?

A I think it was around the middle of March, maybe the 20th or 25th of March. I'm not sure. I don't remember the date.

Q Do you remember whether it was in the morning, afternoon or evening?

A No. I do not remember. I remember it was during the daytime but I don't remember the time.

Q Do you know someone by the name of Jose Sarria?

A Yes.

Q Do you know him by any other name?

A Yes.

Q Did there come a time when you spoke to him

about this shipment of heroin?

A Yes.

Q Do you remember when this was?

THE COURT: Who is this?

MISS NEIMAN: Jose Sarria. He's one of the defendants who is not on trial.

THE COURT: You knew him. Whether he knew him by another name and you left it there.

MISS NEIMAN: I'm sorry.

Q What is that other name?

A Pepito.

MISS NEIMAN: Thank you, your Honor.

Q Do you remember when you met him? I don't remember what your answer was.

A I met him two or three years before that occasion.

Q Do you recall who had introduced you to him?

A We just introduced ourselves to each other.

Q Do you recall when you first spoke to him about this shipment of heroin?

A Yes.

Q When was that?

A During the month of March at the 005 Bar but I do not remember the day or the time.

Q Do you recall who was present during this conversation?

A Miguel and myself.

Q Tell us what the conversation was.

A We spoke about the heroin, the price, the quality.

Q Did Mr. Sarria agree to buy any heroin or ask you for any heroin?

A Yes.

Q How much did he agree to purchase?

A A quarter of a kilo.

Q Were arrangements made for delivery of that quarter of a kilogram?

A Yes.

Q What were those arrangements?

A To deliver the heroin the following day in a place close to Union City or West New York.

Q Did you go the following day to deliver that quarter of a kilo?

A No.

Q Did anybody tell you whether or not that delivery had been made?

A Yes.

Q Who told you?

A No. We never had appointments. He used to come all the time.

Q Do you know someone by the name of Rigoberto Montero?

A Yes.

Q Do you know who that person is?

A Yes.

Q Do you know whether he's related to Mr. Ortega?

A Yes.

Q How is he related to Mr. Ortega?

A I understand he is the brother-in-law.

Q Did there come a time when you saw him in connection with a shipment of heroin?

A Yes.

Q Do you remember where that was?

A Yes.

Q Where was it?

A The first day we saw each other here in New York.

Q Do you remember when that was?

A That was during March but I don't remember the day exactly.

Q Did you have a conversation with Mr. Rigoberto Montero?

A Yes.

Q Who else was present if anyone, at that conversation?

A Only he and I spoke. Raul was there because this took place in a bar but only he and I spoke about this.

Q Do you remember what bar this was?

A I don't remember exactly whether it was at the 005 Bar or some other bar, but I know it was one of those nearby bars.

Q Did you have a conversation with Mr. Montero about this shipment?

MS. PERLMUTTER: My client indicates to me he cannot hear the witness.

THE COURT: Keep your voice up.

Q Did you have a conversation with Mr. Montero about this shipment of heroin?

A Yes.

Q What did he say to you?

A He told me he had come from Miami to here with instructions from Raul Ortega to take a kiloof heroin from here to Miami to be delivered to Mr. Auturo Santana who was the owenr of a car dealing agency, he was a car dealer.

Q Is that a car dealer agency in Florida?

A Yes.

Q After that conversation, did you see Mr. Montero anywhere else?

A Several times, yes, in Miami.

Q Were you ever present when he received a kilo of heroin?

A Yes.

Q Where was that?

A At Ciro Rodriguez' house.

Q Do you recall who gave him that kilo?

A Raul Ortega gave it to him.

Q Did you ever see Mr. Ortega together with Mr. Arturo Santana during this time period?

A During one of the trips that Raul Ortega and I took to Miami, we went to the dealers and while I stayed inside the car Raul got off I assume to speak to that man.

MR. MICHELMAN: Objection as to what he assumes.

THE COURT: Sustained.

Q I take it you stayed in the car; is that correct?

A Yes.

Q Did Mr. Ortega tell you anything about what he

had gone in to do?

A No.

Q Did he tell you anything when he came out?

A No.

Q Do you know an individual by the name of Roberto Lopez?

A Yes.

Q Do you know him by any other name?

A Yes.

Q What is that other name?

A Cara D. Lata.

Q Did you ever directly sell any heroin to Mr. Lopez from this shipment?

A No.

Q Did you ever speak to anyone else about whether or not he had purchased any heroin from this shipment?

A Yes.

Q To whom did you speak?

A With Miguel and Raul.

Q Tell us first what Miguel Rodriguez told you.

A That he had made arrangements with Roberto Lopez to sell him a kilo and a half of heroin.

Q What did Mr. Ortega say to you about Mr. Lopez, if anything?

A That was a transaction that was carried out by Raul Ortega dnd Miguel. I practically had no part in it until the very end.

Q What part did you have at the very end?

A Towards the end it consisted in collecting part of the money he owed and since he had no money to pay he gave me a coat, a mink coat, with an estimated value of $5,000, and I gave it to Mr. Raul Ortega in Miami.

Q Do you know someone by the name of Francisco Perez?

A Yes.

Q Do you know him by any other name?

A Yes.

Q What is that other name?

A Paco.

Q Did there come a time when you spoke to Francisco Perez about this shipment of heroin?

A Yes.

Q Do you recall approximately when this was?

A During March, but I don't remember the date exactly.

Q How long have you know Paco Perez?

A I cannot say exactly but about several years.

Q Where did you first speak to him about the shipment of heroin?

A In front of Joaquin Prada's gas station.

Q Tell us what the conversation was, please.

A He arrived with another man.

Q Do you know who that other person was?

A Yes.

Q Who was that?

A I know him as Joaquin Gil.

Q Did you have a conversation?

A Yes.

Q What was that conversation?

A He told me he wanted me to help him; that he was in a very bad situation. I put my hand in my pocket and pulled out a $100 bill and I was about to give it to him, and he told me no, that was not the kind of help he wanted. He told me he knew I had heroin and he wanted me to give him a certain amount of heroin so he would be able to sell it.

Q What did you say to him?

A I told him yes.

Q How much heroin did you agree to sell to Mr. Perez?

A A quarter of a kilo.

a customer of his, he was a good customer, he had a lot of money, who was interested in buying two or three kilos of heroin and that he had cash to pay for it but Ihad noticed quite a delay from him in paying for that quarter of a kilo so I would tell him to give a sample, I would see you tomorrow, I'll see you later, and I kept him like that until I finally said no.

Q Did you deliver any further heroin to Perez or Gil?

A No.

Q Do you know someone by the name of El Moro?

A Yes.

Q When had you first met El Moro?

(Mr. Mitchell enters the courtroom)

A I met him in Miami, but I cannot say exactly when. Four or five months prior to that.

Q Would you identify him, please?

A Yes. That man there (indicating).

Q Describe what the person is wearing.

A The man sitting behind the man standing right now.

MISS NEIMAN: Will you concede the identity of Mr. Jose Aguilera?

MRS. SOLLEDER: Yes.

Q Did there come a time when you were present at a conversation where El Moro was present, about this shipment of heroin?

MRS. SOLLEDER: May we have a place, your Honor?

THE COURT: We can't do it all in one question. Piece by piece comes in. First did you, and then where.

A Yes.

Q Where was that conversation?

A At my aunt's home.

Q Do you remember when that conversation occurred?

A It was during March, but I don't remember the date.

Q Who was present at your aunt's house?

A Raul Ortega, Miguel Rodriguez, El Moro, and muself.

Q Will you tell us what the conversation was?

A El Moro practically was a good friend of Raul not of mine. Although we had been together in Miami several times at the bars.

MR. SOLLEDER: I object to that answer. It is not responsive.

THE COURT: Overruled.

Q Will you give us the conversation?

A El Moro in my presence and in Miguel's presence let us know that he was going to Chicago. He was telling that to Raul; that he had his customers in Chicago, and that he needed half a kilo of heroin to take with him.

Q Were any arrangements made for El Moro to get that half kilo of heroin?

MRS. SOLLEDER: Objection.

THE COURT: Overruled.

MRS. SOLLEDER: I don't know what it means..

THE COURT: Proceed.

A Yes. Right there.

Q What were those arrangements?

A At that time there was only one car which was Miguel's car. I stayed at my aunt's home and the three of them went to Elizabeth to pick up a half a kilo of heroin.

When I saw Miguel again, and I don't remember whether it was that same night or the following day, and he told me that he had brought back El Moro with the half kilo and he had dropped him at an address around 50-something Street here in Manhattan.

Q Did you ever speak to Mr. Ortega about whether or not El Moro paid for this half kilo of heroin?

A No.

Q Do you know someone by the name of Jose Ramos Ramirez?

A I know him but not by that name.

Q What name do you know that person by?

A Quevas.

Q When did you first meet Quevas?

A I met him around 1969.

Q Did you ever have a conversation with him about this shipment of heroin?

A I've never spoken to him about this heroin.

Q Did anyone ever speak to you about Quevas in connection with this shipment of heroin?

A Yes.

Q Who was that?

A During the time when we were distributing this heroin we had a little tiff between Raul, Miguel and myself about the loss of three kilos of heroin. Miguel said that Raul had taken them and Raul said that Miguel had taken them.

At that time I decided that I did not want any further participation with Miguel, but Miguel would still let me know about all the businesses he transacted.

A time came when Miguel let me know that he had sold one kilo and a half of heroin to Mr. Quevas,

that Raul had consigned it directly to him. Those were just conversations between Miguel and myself. I cann't guarantee anything about that.

Q Do you know someone by the name of Pirollo?

A Yes.

Q Did there come a time when you saw him in connection with this shipment of heroin?

A Yes.

Q Do you know what Pirollo's full name is?

A No.

Q Where did you see him?

A I used to see him several times at the bar El Torrero.

Q Did you see him at a particular time when you discussed a shipment of herion as opposed to generally?

A Yes.

Q Where was that?

A At Joaquin Prada's house.

Q Do you recall when in time this occurred?

A It was at night but I'm not sure of the date and neither am I sure whether this was during March or April.

Q Who was present at Mr. Prada's house?

A When I arrived Pirollo was there, Prada, and

However, I will state that in the event that Mr. Ortega is found guilty by the jury, I will entertain an application to hold an evidentiary hearing before sentence, if I am then persuaded there is a legal basis for such a procedure.

MR. MICHELMAN: May I take a general exception?

THE COURT: You do not have to make exceptions in the Federal Court.

MR. MICHELMAN: I don't practice much in the Federal Courts.

THE COURT: Miss Perlmutter, you are next.

MS. PERLMUTTER: At this time on behalf of the defendant Cifre, I move under Rule 29 for a directed verdict of acquittal.

The first point that the defendant had made in his brief submitted to the Court was that the participation of the defendant Cifre with the distributing co-conspirators, that is Rodriguez and Gonzalez, was not continuing or intimate nor was it in pursuit of a common scheme or plan for which he could be held as a conspirator, and I single out conspirator.

The defendant bases his argument on the Aviles case and the Bynum case. The specific verbiage in the Bynum case, your Honor, is that the participation must be continuing,

perm

intcimate, and pursuant to a common scheme or plan.

The defendant in this case is charged by these two witnesses, Gonzales and Rodriguez, in having purchased two separate one-half kilos of heroin. There is not only a confusion in the testimony, there is a conflict in the testimony, your Honor.

It would appear that from the testimony of Rodriguez that the first time he ever spoke to Cifre concerning the heroin that he was attempting to distribute was approximately six days after the sale to the agents. It was then he said that he met the defendant Cifre together with Gonzalez in a bar across the street from the Prada Garage. As a result of that meeting, Cifre pointed out a man to Rodriguez and as a result of that pointing out of that separate man, there was a delivery in front of Prada's house.

Ramiro Gonzales testified as to that same meeting but that meeting having taken place on the 13th and not the six days later, and having resulted in a transfer on the night of the 13th, to which the witness Miguel Rodriquez never testified to.

It would appear, if your Honor pleases, that from the testimony of these two witnesses and the conflict and confusion in their testimony, that it is altogether possible that there was only one transfer.

If that be so, your Honor, I would rely upon the Aviles case and submit to the Court that one transfer is not sufficient to hold this defendant in a conspiracy.

I would further submit to the Court that the participation of the defendant Cifre was not one of a participant in a conspiracy: rather by the Government's own definition the defendant Cifre was simply a buyer. There was no showing that the defendant Cifre had any interest or dependence as a buyer in the success of this whole operation. He could not care less whether Miguel Rodriguez or Ramiro Gonzales or Raul Ortega ever made any money out of their distribution of drugs. Indeed, all he would be interested in was a simple purchase. A simple purchaser is not a participant in a conspiracy. A conspiracy is an extension of our law of contracts, and I would submit to your Honor that there is no interest shown by the evidence in this case which would make this defendant part of that whole conspiracy if there be one single conspiracy.

I think collateral to this is my motion which had been made to this Court as to count five in the indictment against the defendant. That was based upon duplicity. Count five speaks of the defendant having transferred or concealed one kilo of heroin. The testimony at best here, your Honor, is two separate transfers of one-half kilo of heroin. One-half

kilo was testified to by the witness Rodriguez, another half kilo was testified to by the witness Gonzales. I had submitted to the Court that from the testimony as we heard it in this court, we would never know if this defendant were found guilty whether the jury believed Rodriguez and disbelieved Gonzales or believed Gonzales and disbelieved Rodriguez.

I would submit, your Honor, that under Rule 8 of the Rules, there was an improper joinder of offenses, and based upon this improper joinder of offenses this defendant has been put in a special, a very special, position which is an untenable position, by this artful pleading of the Government. This defendant is prevented from knowing the proper determination of this jury as to the evidence which is against him, which, at best, is confusing and in conflict.

The Government in its memorandum in opposition had said that the proper time for having made this motion would have been prior to the trial since, in the bill of particulars, the defendant had been notified that there were two separate transactions which they intended to prove. That may be so, your Honor, but in the bill of particulars the Government had said that one transaction took place between March 14th and the 23rd and the other late in March and early April. The evidence from the defendant Gonzalez indicated that the

pgrm

transaction that he was speaking of did not take place on the 14th, indeed it took place on March 13th. At the time the defendant was informed that there would be two separate sales, he was not aware of the fact that these two separate sales would be testified to by two different witnesses in which one witness did not corroborate the other witness as to his being present at that sale. He was not aware of the conflict that was there. That would give this defendant proper right at this time to make this motion directed to the duplicity in this case.

I would further submit to the Court that the Government's memorandum in opposition stating to the Court that this is a continual course of conduct permitting them to have these two separate sales testified to by two different individuals included in one count in this indictment because it was a continual course of conduct is a specious argument, your Honor, simply because this is no proof that it was a course of conduct.

Rather it was individual, separate, situations and by grouping them together in no way would one consider the course of conduct on the part of this defendant.

It was the rationale and reasoning of Congress to say that each individual offense should be prosecuted individually, and I will submit to the Court that the government is not being lenient with this defendant, as it said it was in its memorandum, but rather it is being harsh to this defendant by permitting this to happen in this case, particularly in view of the kind of testimony we heard in this courtroom.

I would further submit, your Honor, that the government has stated that the proper remedy, if there is a remedy here, would be to tell the government they should take a choice as to which one of these two half kilo sales they rely upon, and I would say to the Court that that is not the proper remedy, your Honor. The proper remedy in this court would be to dismiss this action, and having looked at the cases which have been cited by the government in this case I did find a case which I did nto cite in my memorandum, which was U.S. v. Martinez Gonzalez, 89 Fed. Supp. 62, in which there was a motion made in arrest of judgment and in that case, a 1950 case, your Honor, the judge in that case saw fit after a conviction in which four different smuggling actions were included in one count of an indictment in which the defendants were found guilty,

the Court dismissed after the defendants had been found guilty.

I would submit, then, that this defendant in this case has a remedy in this court; that he is not precluded from making this application to this Court at this time, and I would further submit, your Honor, that on the basis of my arguments here that under Rule 29 there should be a verdict of acquittal on the conspiracy count as well as a verdict of acquittal under Rule 29 and Rule 8 on the substantive count No. 5.

THE COURT: Miss Neiman.

MISS NEIMAN: Yes, your Honor. I will first address myself to whether or not there is sufficient evidence to find that Mr. Cifre was part of one overall conspiracy. The government's first point on that subject is that there is evidence in this record of two separate half kilo transactions engaged in by Mr. Cifre. I think that the conflict of testimony is something for the jury to resolve and at this stage of the proceedings the Court is required to rule on this motion on the evidence in a light most favorable to the government.

Secondly, apart from the fact that Mr. Cifre knew from Gonzalez and Rodriguez that there was heroin available that they were distributing and which he purchased

on two occasions. The evidence also shows that he knew that Mr. Prada had purchased heroin from Mr. Rodriguez and Mr. Gonzalez, but he wanted to deal directly with Gonzalez and Rodriguez.

In addition, he also knew that Mr. Echevarria had purchased heroin from Mr. Gonzalez and Mr. Rodriguez and agreed to help in collecting the payments from Echevarria, indeed, guaranteed part of the debt. Although he did not make any payments, according to Mr. Gonzalez, he helped in collecting $1,300 from Mrs. and Mr. Echevarria.

THE COURT: What about the matter of duplicity?

MISS NEIMAN: With respect to all the defendants in this case, your Honor, that motion is made to late. All the defendants were aware of the fact that this indictment contained the substantive counts, contained separate transactions, and the bill of particulars spelled that out clearly. By waiting until the middle of the trial the defendants have taken away from the government the right to have superseded this indictment and have taken away from the government the right to ever prosecute them on these counts. I think that is precisely the purpose for having a motion like this made before trial. It is incredibly unfair to march in in the middle of a trial and make a motion like this.

do it.

Summations are going to start shortly. I would rather not do it in between.

I will do it, but I think it is better for you I don't do it now.

Ms. Perlmutter, are you ready to proceed?

MS. PERLMUTTER: Yes, your Honor.

THE COURT: Bring the jury in.

(Jury present.)

MS. PERLMUTTER: Your Honor, the defendant Charles Busigo-Cifre calls Luis Alberto Busigo-Cifre as his witness.

L U I S A. B U S I G O - C I F R E,

having been first duly sworn through the interpreter, testified through the interpreter as follows:

DIRECT EXAMINATION

BY MS. PERLMUTTER:

Q Mr. Busigo-cifre, how old are you?

A 41 years old.

Q Where do you live?

A Guaynabo, Puerto Rico.

Q Is that near San Juan?

A Yes.

Q How far from San Juan is it?

A About 20 minutes.

Q Do you live in your own home?

A Yes.

Q Are you married?

A Yes.

Q Do you have any children?

A Two children.

Q Are you employed, Mr. Busigo-Cifre?

A No. I have my own business.

Q What kind of business is it?

A I have a wallpaper store.

Q Do you do anything else other than own and operate a wallpaper store?

A No.

Q Do you have a college education, Mr. Busigo-Cifre?

A Yes. I am an accountant.

Q Did you graduate from college?

A Yes.

Q From what college was that?

A It was the University of Puerto Rico.

Q Mr. Busigo-Cifre, are you related to Charles Busigo-Cifre?

A Yes. I am his brother.

Q How many brothers and sisters do you have?

A I have six sisters and five brothers.

Q Mr. Busigo-Cifre, I refer you to the year 1970 and ask you whether you saw your brother in Puerto Rico in the year 1970?

A Yes.

Q Can you tell us about when you saw him in Puerto Rico in the year 1970?

A Towards the middle of June.

MS. PERLMUTTER: I would ask that these two items be marked for identification.

(Defendant Busigo-Cifre Exhibits N and O marked for identification.)

Q I show you Defendant's Exhibit N for identification and ask you whether you can identify this item.

A This is a ticket for Paul Cifre, my brother's child.

Q Do you see the date on it?

A Yes.

Q What is the date on that ticket?

MISS NEIMAN: Objection.

THE COURT: Why?

MISS NEIMAN: The document is not in evidence.

THE COURT: True.

Are you going to object to it?

MISS NEIMAN: I have never seen it.

Q Look at this as well and tell us what the name is on there.

A Charles Cifre.

MS. PERLMUTTER: I will offer these two items into evidence, your Honor.

(Pause.)

MISS NEIMAN: No objection, your Honor, except as to relevance.

THE COURT: All right.

(Defendant Busigo-Cifre Exhibits 7 and 8 received in evidence.)

Q I show you these two Pan Am tickets and ask you whether these two tickets refresh your recollection as to when you saw Charles Cifre and his son Paul Cifre in Puerto Rico in the year 1970?

A Yes.

Q When was that?

A That was in 1970, towards the middle of June.

Q When you saw them in Puerto Rico in the middle of June in 1970 will you tell us where you saw them?

A I picked them up at the airport. I picked him up and I picked up his son, and I took them to my home, and his son staved at my home because he was going to spend the summer

there.

Q How old was his son at that time?

A Six years old.

Q Did Mr. Charles Cifre's son stay with you from the middle of June through the summer in your house?

A Yes, sir.

Q Do you know whether Mr. Charles Busigo-Cifre stayed in Puerto Rico during the summer from June on in the year 1970?

A Yes.

Q Do you know where he stayed?

A He stayed at an apartment he owns at 607 Darlington, Rio Piedras, Puerto Rico.

Q Is Rio Piedras near San Juan?

A It is part of San Juan.

Q Is it near where you live as well?

A Yes.

Q Do you know what apartment he stayed in at this address?

A 607.

Q How do you know the number of that apartment?

A Because that apartment used to belong to me.

Q You say that apartment used to belong to you. When is it that you sold or gave that apartment to your

brother Charles Busigo-Cifre?

A I sold it to him towards the end of 1969.

Q How do you remember that was the end of 1969 that you sold him that apartment?

A Because it was about that time that he sold a gas station that he owned here in New York.

Q How much money did he pay you for that apartment?

A That apartment had a value of $16,000 but it had a mortgage for $12,000 so he gave me a check for $4,000.

Q That was not cash but a check?

A Yes.

Q Referring you again to the middle of June, 1970, you say that your brother's son, your nephew Paul, stayed with you over the summer; is that correct?

A Yes.

Q How often did you see your brother Charles in Puerto Rico during that summer?

A I used to see him every day.

Q Can you tell us where you saw him?

A I used to see him at home when he came to see his son and I used to see him at the supermarket that I owned at that time.

Q You owned a business at that time, a supermarket; is that correct? You don't own it anymore?

A No. That's correct. Now I have a wallpaper store.

Q Did you also see him at the apartment you had sold?

A Yes. A couple of times.

Q Would you say it was daily that you saw him either in your house or in your store or in the apartment?

A Yes. I used to see him every day because he was using my car.

Q There came a time that Charles and his son left Puerto Rico; is that correct?

A Yes.

Q Do you recall when he left Puerto Rico?

A At the beginning of August.

Q Will you tell us how you remember that it was the beginning of August?

A Because classes begin in Puerto Rico at the beginning of August.

Q You say you have two children; is that right?

A Yes.

Q Did your two children begin school at the beginning of August in the year 1970?

A Yes.

Q How old were your children in 1970 that you say

they started school at the beginning of August?

A Six and four years old.

Q Do children of four go to school in Puerto Rico?

A They go to kindergarten.

Q Will you tell us where Charles and his son went to at the beginning of August when they left Puerto Rico?

A They returned to Miami.

Q How do you know they went to Miami?

A He told me so. I took him to the airport and he told me he was going to Miami.

Q You greeted him in the airport in June when he came? You met him there; is that correct?

A Yes.

Q You took him to the airport to go to Miami in August; is that right?

A Yes.

Q Before this morning had you ever seen me or spoken to me?

A No.

Q When did you arrive in New York City?

A Last night at 2:00 in the morning.

Q Did you speak to me this morning?

A Yes.

Q Where did you speak to me?

A In the corridor.

Q Was that outside this courtroom?

A Yes.

Q Who was present at that time?

A My brother.

Q Was anybody else present?

A No. Nobody else.

Q Did he translate for you?

A Yes.

Q Before this morning you and I had never conversed about this case; is that right?

A I had never seen you before.

MS. PERLMUTTER: I have no further questions.

CROSS EXAMINATION

BY MISS NEIMAN:

Q Where did you get Defendant Cifre's Exhibits 1 and 2?

MS. PERLMUTTER: There is no evidence that he got them.

THE COURT: I don't know where they came from.

MS. PERLMUTTER: There is no evidence that he got them.

THE COURT: I assume they were offered on that basis.

PGjw 2345

UNITED STATES OF AMERICA

v. 74 Crim. 18

RAUL ORTEGA-ALVAREZ, et al.

March 19, 1974
10:20 A.M.

(Trial resumed - jury present)

C H A R G E

THE COURT: Mr. Jerry and Ladies and Gentlemen of the Jury:

We have now reached the point in this trial where you are about to enter upon your final function as jurors, which is, of course, one of the sacred duties of citizenship. You have given careful attention to the evidence during the course of the trial, and I am certain that you will conduct your deliberations in the same fine spirit that you have so far displayed and with impartiality and fairness reach a just verdict in this case.

In our court system the functions of the judge and the functions of the jury are clearly defined. It is my duty to instruct you as to what the law is; it is your duty to accept the law as I state it to you. Just as I am the exclusive judge of the law, so you are

the exclusive judges of the facts. You alone determine the credibility of the witnesses, and the weight, effect and value that should be given to their testimony. It is up to you to determine from the evidence which you have heard what the facts are in this case, and from those facts decide whether a defendants has violated the law.

This is a criminal prosecution in which the government is one party and the defendants are the others. The fact that the government is a party entitles it to no greater and to no lesser consideration than any other party. It is entitled to the same consideration as given to the defendants, no more and no less.

This case must be decided within the scope of the charges against each defendant as contained in the indictment, but before discussing the law applicable to the charges of the indictment, let us consider some general principles which apply to every criminal case.

An indictment itself is not evidence. It merely describes the charges made against a defendant and may not be considered by you as evidence of the guilt of a defendant. Nor can the fact that a grand jury has found this indictment in any way detract from the presumption of innocence with which the law surrounds a defendant

unless and until his guilt is proved beyond a reasonable doubt.

As a result of my rulings on motions, the charges against defendant Rosal-Rodriguez contained in Counts 1 and 13 have been withdrawn from your consideration.

Similarly, the charge against Hugo Viera contained in Count 9 has been withdrawn from your consideration. These dispositions should not be considered or discussed by you, or influence you, in any way in passing upon the guilt or innocence of Hugo Viera on Count 1 of the indictment, or the guilt or innocence of any of the other defendants on the counts in the indictment which are being submitted to you for your determination.

Orlando Gil has admitted that he plead guilty to violation of the narcotics laws involving this transaction. Here, again, you may not consider his plea in any way in passing upon the guilt or innocence of any defendant who is presently on trial.

Similarly, the fact that Carlos Tapanes and Joaquin Prada, who are named as defendants in the indictment but are not being tried at this time should have no bearing whatsoever on your disposition of the charges which are being submitted to you.

The government has been unable to arrest a number of other defendants named in this indictment, and their cases are not being submitted to you. They are Luis Reyes, Jose Sarria, Francisco Perez, Jose Ramirez Ramos, and Roberto Lopez. Again, I caution you that their absence should not be considered in any manner in determining the guilt or innocence of a defendant who is standing trial.

Each of the ten counts which you will consider alleges the commission of a separate and distinct offense. It will be necessary for you to reach a verdict of guilty or not guilty as to each of the defendants separately on each of the counts of the indictment in which he is named. You must consider and weigh the evidence separately as to each defendant in each count. The fact that you may find one of the defendants guilty or not guilty of one of the offenses charged should not control or influence your verdict with respect to any other defendant or any other offense charged.

Each defendant has denied the charges in the indictment. By his plea of not guilty, each defendant has put into issue every material fact alleged in the accusations brought against him. Accordingly, the government having made the charge has the burden of proving

beyond a reasonable doubt each material element of each count of the indictment. This rule applies to each defendant individually as to each of the charges in the indictment in which he is named. This burden of proof never shifts. It remains with the government throughout the entire trial and during your deliberations as jurors.

A defendant does not have to prove his innocence. He is presumed to be innocent, and this presumption is overcome only when you reach a conclusion from the evidence that his guilt has been established beyond a reasonable doubt.

What is meant by a reasonable doubt? There is nothing mysterious about the term. It means, as the words themselves indicate, a doubt based upon reason and common sense which arises after consideration of all the evidence. Reasonable doubt is a doubt which would cause reasonable persons to hesitate to act in matters of importance to themselves. It is not a vague, speculative, imaginary something, and a person may not be convicted on mere suspicion or conjecture.

On the other hand, a reasonable doubt does not exist merely because a juror does not wish to perform an unpleasant duty.

A reasonable doubt may arise not only from

the evidence produced, but also from a lack of evidence.

A defendant may also rely upon evidence brought out on cross-examination of any of the witnesses who have testified on behalf of the government. He may attempt to raise a reasonable doubt in your minds as to the existence of one or more of the essential elements of the crime without affirmatively presenting his version of all or any of the facts. This is so because the law does not impose upon a defendant a duty to produce any evidence.

The law does not compel a defendant to take the witness stand and testify and no presumption of guilt may be raised, and no inference of any kind may be drawn, from the failure of a defendant to testify.

Now, it is not necessary for the government to prove the guilt of a defendant beyond any possible doubt. Proof is usually not a matter of mathematical or absolute certainty. In the nature of things it cannot be; but to sustain a conviction there must be such proof as satisfies your reason as intelligent people beyond any reasonable doubt that a defendant is guilty as charged. If you do not have a reasonable doubt of a defendant's guilt as to the material elements of a charge, then you should return a verdict of guilty on that count. If,

on the other hand, you do have a reasonable doubt as to a defendant's guilt as to any of the material elements of the crime charged, then you must return a verdict of not guilty as to that count.

If the evidence is susceptible of two interpretations, each of which appears to you to be reasonable, one of which points to the guilt of the defendant and the other to his innocence, it is your duty under the law to adopt that interpretation or conclusion which will admit of the defendant's innocence and reject that which points to his guilt.

Now the first count of the indictment is the conspiracy count. It charges that from on or about December 1st, 1969 until April 30th, 1971, Ortega, Mr. and Mrs. Calana, Reyes, Infiesta, Prada, Echevarria, Busigo-Cifre, Del Cristo, Alvarez, Viera, Sarria, Otero, Perez, Gil, Figueroa, Rosal-Rodriguez, and Ramirez Ramos, Lopez, Aguilera and Tapanes, unlawfully, knowingly, and wilfully conspired with each other, and with Ramiro Gonzalez and Miguel Rodriguez and others to the grand jury known and unknown, to violate Sections 173 and 174 of Title 21 of the United States Code.

We are specifically concerned here with Section 174 which makes it a crime for any person to

receive, conceal, buy, or sell, or in any manner facilitate the transportation or concealment or sale of any narcotic drug after being imported or brought into the United States knowing the drug to have been brought into the United States contrary to law.

What is a conspiracy? It is a combination or agreement of two or more persons by concerted action to accomplish a criminal or unlawful purpose, and one or more of the persons who are members of the conspiracy does any act to effect or further the object of the conspiracy.

It is a partnership in criminal purposes in which each member becomes the agent of every other member and is a crime in itself.

To prove a conspiracy here, the evidence must show beyond a reasonable doubt the existence of each one of the following elements:

First, that the conspiracy described was formed and existing at or about the time alleged;

Second, that it was part of the conspiracy to receive, conceal, possess, buy, sell, and facilitate transportation, concealment and sale of large quantities of narcotic drugs, to wit, heroin, after such narcotic drugs had been imported and brought into the United States

contrary to law, knowing that the said narcotic drugs had been imported and brought into the United States contrary to law.

Third, a material element is that a defendant knowing and wilfully became a member of the conspiracy;

Fourth, that one of the conspirators thereafter knowingly committed at least one of the overt acts charged in the indictment at or about the time and place alleged; and

Fifth, that such overt act was committed in furtherance of some object or purpose of the conspiracy as charged.

As to the formation of a conspiracy, it is not necessary that there be proof that the participants met together and entered into a formal or written agreement or that they directly stated between themselves what their object or purpose was to be, or the details of the plans, or the means by which the purpose was to be achieved. Indeed, it would be extraordinary were the members of a conspiracy to set forth all the actual details of their arrangement in a formal and written agreement. When persons, in fact, embark together upon a criminal conspiracy, much is often unexpressed, much is left to unwritten understanding. Generally, such a

contrary to law, knowing that said narcotic drugs had been imported and brought into the United States contrary to law.

Third, that a defendant knowing and wilfully became a member of the conspiracy;

Fourth, that one of the conspirators thereafter knowingly committed at least one of the overt acts charged in the indictment at or about the time and place alleged; and

Fifth, that such overt act was committed in furtherance of some object or purpose of the conspiracy as charged.

As to the formation of a conspiracy, it is not necessary that there be proof that the participants met together and entered into a formal or written agreement or that they directly stated between themselves what their object or purpose was to be, or the details of the plans, or the means by which the purpose was to be achieved. Indeed, it would be extraordinary were the members of a conspiracy to set forth all the actual details of their arrangements in a formal and written agreement. When persons, in fact, embark together upon a criminal conspiracy, much is often unexpressed,much is left to unwritten understanding.Generally,such a

criminal conspiracy is a matter of inference deduced from the acts and statements of the alleged conspirators.

What the evidence must show in order to establish that a conspiracy existed is that the members in some way or other, positively or tacitly, came to a mutual understanding to engage in a common unlawful agreement to violate Section 174 of the Federal Narcotics Laws which I have just described for you.

All of the members need not have joined at the inception of the agreement, and I will discuss this point more fully with you later on. In determining whether or not there was such an unlawful agreement, you may judge the acts and conduct of each of the alleged conspirators as a whole and the reasonable inferences to be drawn from such evidence.

An unlawful agreement may exist even though the individual conspirators may have done some acts in furtherance of the common unlawful purpose apart from, or unknown to, the others.

Proof of several separate and independent conspiracies is not proof of the single overall conspiracy charged in the indictment unless one of those conspiracies proved is the single conspiracy charged in the indictment.

What you must determine as to this element

is whether the conspiracy charged in the indictment existed between two or more of the alleged conspirators. If you find that no such conspiracy existed, then you must acquit all of the defendants on Count 1.

In determining whether the alleged conspiracy exists, you may consider what the evidence shows as to changes in personnel and activity. You may find a single conspiracy even though there were changes in personnel or activities, provided that you find that some of the conspirators continued throughout the life of the conspiracy and that the purpose of the conspiracy continued to be that charged in the indictment. The fact that the parties are not always identical does not mean that there are separate conspiracies. In other words, if at all times the alleged conspiracy had the same overall primary purpose and the same nucleus of participants, the conspiracy would be the same basic scheme even though in the course of its operation additional conspirators joined in and performed additional functions to carry out the scheme while others were not active or had terminated their relationship.

If you satisfy yourselves beyond a reasonable doubt that the conspiracy as alleged in the indictment existed, then you must determine as to each defendant

as to whether he or she knowing and wilfully was an active participant in the unlawful plan with the intention of furthering its objectives. Mere knowledge of an illegal act on the part of some other alleged co-conspirator is not sufficient. Merely acting in a way which incidentally furthers the purpose of the conspiracy without knowledge that a conspiracy exists does not make a person a member of the conspiracy.

You may find that a defendant acted knowingly and wilfully if he acted voluntarily and purposely and with specific intent to do something which the law forbids. That is to say that he must have acted with evil motive or bad purpose to disobey or to disregard the law and not because of negligence, mistake, inadvertance or other innocent

It is obviously impossible to ascertain or prove directly what a person knew or intended. You cannot look into a person's mind and see what his intentions were or what he knew. But a careful and intelligent consideration of the facts and circumstances shown by the evidence in any given case as to a person's actions and statements enables us to infer with a reasonable degree of certainty and accuracy what his intentions were in doing or not doing certain things and the state of his knowledge.

In order for you to find that a particular defendant was a member of the conspiracy charged in the indictment, you must find that that defendant knew what its unlawful purpose was and that he had a stake or personal interest in it as distinguished from acting exclusively on his own. The scope of each defendant's agreement must be determined individually from what was proved as to that defendant.

In order for a defendant to be held for joining others in a conspiracy, he must in some sense promote their venture himself or make it his own.

Thus, it becomes essential for you to determine just what a defendant was promoting and making his own. In this regard, it is not required that each of the conspirators participate in or have knowledge of, all of the conspiracy's operations. The guilt of a conspirator is not governed by the extent of his participation; he need not know all of the alleged conspirators.

Even if a defendant participated in the conspiracy to a degree more or less than that of his fellow conspirators, or in a relatively subordinate or minor way, he is equally culpable as long as he became a member of the conspiracy with knowledge of its general scope or purpose.

Now, a single act of a defendant, such as a purchase of heroin from a member of a conspiracy, may be sufficient to draw that defendant within the ambit of the conspiracy. However, since conviction for conspiracy requires an intent to participate in the unlawful enterprise, the single act itself must be such that you may reasonably infer from it such an intent, or there must be independent evidence tending to prove that a defendant had some knowledge of the broader conspiracy beyond his single act.

You may consider the quantity of heroin purchased, its cost and the circumstances under which the purchase was made as bearing on a defendant's intent to participate in the conspiracy. You may find from such facts that the conspirators at one end knew business could not stop with their buyers and that the conspirators at the other end knew it did not begin with their sellers.

Such facts may prove that each level of operation depended upon the existence of the other, and the mutual interdependence of each level was fully understood and appreciated by the defendant.

I want to caution you, however, that mere association with one or more of the alleged conspirators does not make one a member of the conspiracy. Nor is

knowledge without participation sufficient to make one a conspirator.

Now, it is not necessary that all conspirators have participated in the alleged conspiracy from its inception. A person who comes in at a later point with knowledge of the conspiracy's general operation, although not necessarily of all of its details, and who intentionally acts in a way to further the unlawful goals, becomes a member of the conspiracy and is legally responsible for all that may be or has been done in furtherance of the common criminal objective.

In determining whether or not a particular defendant was a member of a conspiracy, you may consider evidence of his own statements, and conduct of other alleged co-conspirators and the reasonable inferences to be drawn from such evidence, provided you find that such acts or statements of a con-conspirator were made during the course of the conspiracy and in aid of or in furtherance of its alleged purpose.

The alleged purpose of the conspiracy is that the defendants would buy, or sell, or receive, or conceal, or in any manner facilitate the transportation or concealment or sale of illegally imported heroin.

pgjw

Since the purpose of the alleged conspiracy was to deal in heroin that was illegally imported, before you find that a defendant was a member of the conspiracy, you must be convinced beyond a reasonable doubt that he had knowledge of the heroin's illegal importation. Now the government has not introduced proof of each defendant's knowledge that the heroin was illegally imported. Instead, the government relies on an inference to show this knowledge which I will explain to you later on in this charge in connection with the substantive counts and which will apply equally as well to this conspiracy count.

If after considering each defendant separately you find that he is not a member of the conspiracy alleged in the indictment or is a member of some other conspiracy than the one alleged in the indictment, then you should acquit that particular defendant on Count 1.

Thus, it is possible for you to find that none of the defendants, or some of the defendants, or all of the defendants, on trial were members of the single conspiracy alleged in the indictment.

The indictment alleges that the conspiracy commenced on or about December 1st, 1969 and continued to April 30th, 1971.

The government, however, is not required to

prove that the alleged conspiracy existed over the whole course of time set out in the indictment. It is sufficient if you find that any time within that period all of the elements of the alleged conspiracy have been proven to your satisfaction beyond a reasonable doubt. The fact that the government may not have proved that the conspiracy was carried on as early or as long as the indictment alleges is not of any importance so far as the elements of the crime are concerned.

The next element that must be proved on this issue of the conspiracy is the requirement of an overt act. You may not find a defendant guilty of conspiracy unless you are convinced beyond a reasonable doubt that one of the conspirators knowingly committed one of the overt acts charged in the indictment. The government need not prove the commission of all of the overt acts charged in the indictment.

By the term "overt act" is meant any act committed by one of the conspirators in an effort to effect or accomplish some object or purpose of the conspiracy. It must be knowingly done in furtherance of some object or purpose of the conspiracy charged in the indictment. The overtact need not be criminal in nature if considered separately and apart from the

conspiracy. It may be as innocent as the act of a man walking across the street or using a telephone.

The overt acts referred to in this indictment are the following -- and I will read them to you:

1. In or about March, 1970, the defendant Raul Ortega-Alvarez met with co-conspirators Ramiro Gonzalez in Miami, Florida.

2. In or about March, 1970, the defendant Raul Ortega-Alvarez and co-conspirator Ramiro Gonzalez flew from Miami, Florida to Newark, New Jersey.

3. On or about March 12, 1970, the defendant Raul Ortega-Alvarez registered and stayed in the Saxony Motel, 330 Atlantic Avenue, Elizabeth, New Jersey.

4. On or about March 12, 1970, the defendant Raul Ortega-Alvarez and co-conspirator Ramiro Gonzalez met with the defendants Ciro Rodriguez-Calana and Francisca Ortega-Rodriguez at 38 Rankin Street, Elizabeth, New Jersey. I gather Francisca Ortega-Rodriguez is the lady whom we have been calling Mrs. Calana during the course of this trial.

5. On or about March 12, 1970, the defendants Jorge Infiesta and Luis Reyes-Padron received approximately one kilogram of heroin from the defendant Raul Ortega-Alvarez in an apartment at 666 West 162nd Street,

New York, New York.

6. On or about March 13, 1970, defendant Joaquin R. Prada and co-conspirators Ramiro Gonzalez and Miguel Rodriquez delivered approximately one kilogram of heroin at the CBC Gas Station, 2120 Amsterdam Avenue, New York, New York.

7. On or about March 13, 1970, the defendants Raul Ortega-Alvarez, Jorge Infiesta, and Luis Reyes-Padron met in an apartment at 666 West 162nd Street, New York, New York.

8. On or about March 16, 1970, the defendant Raul Ortega- Alvarez entered Luigi's Restaurant and Bar, 4199 Broadway, New York, New York.

9. On or about March 31st, 1970, the defendant Carlos Tapanes delivered approximately one kilogram of heroin in the parking lot of the Hicksville Diner, Old Country Road and South Oyster Bay Road, Hicksville, Long Island.

10. In or about March, 1970, the defendant Raul Ortega-Alvarez delivered approximately one kilogram of heroin to the defendant Luis Reyes-Padron at 38 Rankin Street, Elizabeth, New Jersey.

11. In or about March or April, 1970, the defendant Raul Ortega-Alvarez delivered approximately two

kilograms of heroin to the defendants Jorge Infiesta and Luis Reyes-Padron in an apartment at 666 West 162nd Street, New York, New York.

12. In or about March , 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez met with the defendants Francisco Orlando Perez and Orlando Gil.

13. On or about March 24, 1970, the defendants Francisco Orlando Perez and Orlando Gil met at 572 West 173rd Street, New York, New York.

14. On or about March 24, 1970, the defendant Francisco Orlando Perez went to the Blue Mirror Bar, 3347 Broadway, New York, New York.

15. In or about March or April, 1970, the defendant Hector Echevarria received approximately one-half kilogram of heroin at 380 Audubon Avenue, New York, New York.

16. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez had a conversation with the defendant Charles Busigo-Cifre in the vicinity of the CBC Gas Station, 2120 Amsterdam Avenue, New York, New York.

17. In or about March or April, 1970, co-conspirators Ramrio Gonzalez and Miguel Rodriguez delivered approximately one-half kilogram of heroin for the defendant

Charles Busigo-Cifre to John Doe in the vicinity of the CBC Gas Station, 2120 Amsterdam Avenue, New York, New York.

18. In or about March or April, 1970, the defendant Joaquin R. Prada received a sum of money from the defendant Charles Busigo-Cifre.

19. In or about March or April, 1970, the defendants Charles Busigo-Cifre and Hector Echevarria met at 380 Audubon Avenue, New York, New York.

20. In or about March or April, 1970, co-conspirator Ramiro Gonzalez met with the defendant Domingo Del Cristo at the Gallo De Maron Bar, 3922 Broadway, New York, New York.

21. In or about March or April, 1970, the defendants Armando Garcia-Alvarez and John Doe, also known as Hugo El Americano, met at a bar in the Alamac Hotel, 2056 Broadway, New York, New York.

22. In or about March or April, 1970, the defendant Armando Garcia-Alvarez met with co-conspirator Ramiro Gonzalez in Miami, Florida.

Overt act 23 has been stricken so we will go on to the next one.

24. In or about March or April, 1970, the defendant Raul Ortega-Alvarez and co-conspirators Ramiro

Gonzalez and Miguel Rodriguez delivered one kilogram of heroin to the defendant Armando Garcia-Alvarez in the vicinity of 158th Street and Broadway, New York, New York.

25. In or about March or April, 1970, the defendant Jose Luis Sarria and John Doe, also known as Roberto, received approximately one and a half kilograms of heroin in Hudson County, New Jersey.

26. In or about March or April, 1970, co-conspirator Ramiro Gonzalez met with the defendant Jose Otero at the Gallo De Maron Bar, 3922 Broadway, New York, New York.

27. In or about March or April, 1970, the defendant Jose Otero received approximately one kilogram of heroin in the vicinity of the Cuba Bar, 1475 St. Nicholas Avenue, New York, New York.

28. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez met with the defendant Cirillo Figueroa at the 005 Bar, 3865 Broadway, New York, New York.

29. In or about March or April, 1970, co-conspirator Ramiro Gonzalez delivered approximately one kilogram of heroin for the defendant Cirillo Figueroa to John Doe in an apartment at 804 West 180th Street,

New York, New York.

30. In or about March or April, 1970, co-conspirator Miguel Rodriguez delivered approximately one kilogram of heroin for the defendant Cirillo Figueroa to the defendant Rigoberto Rosal-Rodriguez at the CBC Gas Station, 2120 Amsterdam Avenue, New York, New York.

Overt act 31 has been stricken.

32. In or about March or April, 1970, the defendant Joaquin R. Prada handed one and a half kilograms of heroin to the defendant Cirillo Figueroa in an apartment at 790 Riverside Drive, New York, New York.

33. In or about March or April, 1970, the defendant Jose Ramirez Rios received approximately one-half kilogram of heroin at the El Bayames Restaurant, 1279 St. Nicholas Avenue, New York, New York.

34. In or about March or April, 1970, the defendant John Doe, also known as Roberto Lopez, received approximately one-half kilogram of heroin at the Gallo De Maron Bar, 3924 Broadway, New York, New York.

35. In or about March or April, 1970, the defendant Jose Angel Aguilera transported one-half kilogram of heroin from Elizabeth, New Jersey, to New York, New York.

The fact that a particular defendant is not

named in an overt act is of no importance because once you find that a conspiracy existed and that a defendant on trial was a member of a conspiracy, then he is bound by the acts done and statements made by any other member in furtherance of that conspiracy, even in the absence of such defendant.

Once you have determined that the offense has been established under the guidelines I have just given you, then the crime of conspiracy is complete as to every person found by you to have been knowingly and wilfully a member of the conspiracy.

Furthermore, at this point the success or failure of the conspiracy to accomplish the common object or purpose is immaterial.

At this point I am going to summarize the evidence which the parties claim supports their contentions as to the existence or non-existence of a conspiracy to distribute 45 kilograms of heroin. Of course, my recollection of the facts is in no sense binding on you. It is your recollection of the evidence as you heard it recited from the witness stand that controls.

The government contends that all of the defendants named in the indictment and more specifically those who are seated before you are guilty under Count 1.

Noa testified that he picked up 60 kilos of heroin at JFK Airport and that he eventually delivered 55 of these kilos to Roberto Arenas. Arenas testified that Coronel sent Ortega from Miami to pick up this heroin at Arenas' apartment, and that Ortega came to his apartment and took two suitcases of heroin which Ortega said he was going to put in the apartment of his brother-in-law, Ciro Rodriguez-Calana, in Elizabeth, New Jersey. Later Arenas testified that Ortega agreed to bring 20 kilos back from New Jersey to give to Caramian. The next day, which Arenas testified was February 22nd, Ortega brought the 20 kilos to his apartment but Caramian took only ten kilos and Ortega retained the other ten.

The government contends that Ortega then set about selling the remaining 45 kilos by himself with the aid of Miguel Rodriguez and Ramiro Gonzalez.

Ramiro Gonzalez testified that Ortega asked him to go to New York to sell heroin and that they would be 50-50 partners. Gonzalez said that Ortega told him that the 45 kilos of heroin were pure and he gave him $300 to buy a machine to seal plastic bags and to buy a plane ticket to Newark. According to Gonzalez, he and Ortega flew to Newark where they stayed at the Saxony Motel.

The next day, which was March 12th, he claims that they went to the home of Ortega's sister, Francisca Calana, at 38 Rankin Street in Elizabeth, where Ortega displayed two suitcases containing heroin to Gonzalez. Gonzalez says that Mr. and Mrs. Calana were in the house when they arrived, although Mrs. Calana was not present in the room when the suitcases were shown.

Ortega said that the remaining portions of the 45 kilos were in a nearby house. Rodriguez has also testified that on March 13th, Ortega showed him a suitcase of heroin at the Calana house and said that heroin was stashed at the home of another sister.

Coming back to March 12th, Gonzalez testified that he and Ortega went to Infiesta's house where Gonzalez says that Infiesta asked him to intercede with Ortega for a better price and quality. According to Gonzalez, Ortega had sold heroin to Infiesta several days before.

Later on that day Gonzalez brought Rodriguez to a bar to meet Ortega and discuss their business relationships. Gonzalez testified that he delivered the money which he and Rodriguez collected for the sale of this heroin to Ortega and that he accompanied Ortega when Ortega went to deliver money to Arenas. Arenas testified that he had many meetings with Ortega in which Ortega

brought him money amounting to about $140,000.

On March 13th, Gonzalez says that he and Ortega drove to New York in a Blue Corvair car which Ortega said belonged to his family. They took seven kilos of heroin to Infiesta's house where it was cut, and Infiesta bought a kilo at that time. Rodriguez has testified that heroin was also cut the following day with Ortega, Infiesta, Mr. Calana, and Rodriguez being present.

Gonzalez also testified that Ortega was present at the bar in Luigi's Restaurant two or three days later when he and Rodriguez were discussing the second sale to the agents Tumillo and Angioletti.

Rodriguez and the agents have testified that they witnessed this event.

Both Gonzalez and Rodriguez have testified to the sale of heroin by Ortega to Chaveco at 110th and Broadway. At one point these two witnesses have testified that Ortega urged them to get active and sell the heroin. Gonzalez said that Ortega was present at the Gallo De Maron Bar when the defendant Viera gave Gonzalez $14,000 and that he was in the car when Gonzalez handed El Chino, Mr. Alvarez, two kilos from his car at 158th and Broadway.

Both Rodriguez and Gonzalez have testified that Ortega gave Rodriquez six and a half kilos at Calana's

house just before Ortega and Gonzalez left for Miami.

The government contends that defendant Busigo-Cifre was a member of this conspiracy because he purchased heroin from this 45 kilo shipment on two occasions. Cifre is alleged to have told Rodriguez that he wanted to buy from Rodriguez because he had become dissatisfied with buying from Prada who owned the CBC Gas Station, which formerly belonged to Cifre.

Rodriguez and Gonzalez testified that they sold half a kilo to Cifre for $9,500 and that Cifre had Rodriguez deliver the heroin to a third person who worked for Cifre. Gonzalez also testified that there was a second sale of a half a kilo to Cifre.

pgd

Rodriguez and Gonzalez also testified that Cifre agreed to underwrite part of a purchase by defendant Echevarria after Rodriguez experienced difficulty collecting from Echevarria on a sale made to him. Thereafter Gonzalez said that he and Cifre went to Echevarria's supermarket and that Echevarria's wife produced a bag filled with money.

The government places Armando Alvarez in this conspiracy claiming that he purchased six kilos on four different occasions. Rodriguez testified to delivering one kilo to Alvarez at 180th Street and Fort Washington Avenue and a second delivery of one and a half kilos to this defendant at 158th Street and Broadway where he claims that he was accompanied by Ortega and Gonzalez. Gonzalez has testified that in addition to the deliveries by Rodriguez, Gonzalez delivered two kilos to this defendant at Viera's house on one occasion and one kilo on another.

Both witnesses have testified to payments having been made for these purchases.

As far as Jose Otero's involvement in this conspiracy is concerned, Rodriguez has testified that he met this defendant at a bar with Ortega and Gonzalez, that Ortega told Rodriguez to give this defendant one and a half kilos which Rodriguez delivered to Otero. Gonzalez places the conversation at the same bar without Ortega being present. He quotes

Ortero as saying that he knew Gonzalez had heroin and he wanted some. Gonzalez says only one kilo was involved for which Otera paid $17,000.

The government seeks to place the defendant Cirillo Figueroa in this conspiracy by testimony of Rodriguez and Gonzalez that they sold and delivered six and a half kilos of this heroin to Figueroa on six different occasions.

Rodriguez says that this defendant had been buying from Reyes and Infiesta but wanted to buy directly from Rodriguez and Gonzalez. Rodriguez detailed five deliveries of five and a half kilos and Gonzalez testifies to a sixth delivery of one kilo.

In addition, Rodriguez says Figueroa wanted to buy more but the sale could not be made because the 45 kilos had been sold. Figueroa is said to have paid $19,000 for the first kilo.

Coming now to the question as to whether the defendant Jorge Infiesta was a member of the alleged conspiracy, the testimony is to the effect that Ortega left quantities of heroin in Infiesta's apartment, that Infiesta helped cut it on one occasion, and that he bought one kilo from Ortega for himself and Reyes.

Gonzalez, in addition, says that he and Ortega sold two kilos to Infiesta and Reyes and that he collected

3pgd

money from Infiesta at Ortega's request.

Finally, there is a conversation in which Ortega is supposed to have told Gonzalez that he had sold three kilos to Infiesta and Reyes the day before Gonzalez first flew up to Newark.

Rodriguez and Gonzalez place Domingo Del Cristo in the conspiracy. Rodriguez has testified that this defendant came to him looking for Ortega because he wanted to buy heroin. Ortega told Rodriguez that he would speak to Del Cristo. Gonzalez has testified that there were two sales of one-half kilo each to Del Cristo. Both Rodriguez and Gonzalez have testified about difficulties in collecting money from this defendant. Gonzalez says that Lopez paid $1,800 of Del Cristo's debt because they were partners.

The government also places Mr. and Mrs. Calana in this conspiracy. It claims that most of the heroin was kept in their home at 38 Rankin Street in Elizabeth, New Jersey pending sale. Both Rodriguez and Gonzalez state that both of these defendants were present at times when heroin was being cut and that they were to be paid for their help in stashing the heroin.

Gonzalez has testified that he gave money to both Calanas to be given to Ortega for the sale of the heroin.

In addition, Arenas has said that Mr. Calana

was seated in a car with New Jersey license plates parked in front of his apartment, and that Ortega, carrying ten kilos of heroin, walked toward the car after leaving Arenas in front of his apartment building on February 22nd.

Gonzalez says that on several occasions Mr. Calana gave him heroin and that defendant Ortega had sent Mr. Calana to get additional heroin which had been left at a nearby place.

Finally, there is the testimony of Agent McBllyn who places the Corvair car registered in Mrs. Calana name, PFG 721, in the rear of Prada's gas station when the first sale of heroin was made to agents Angioletti and Tumillo by Gonzalez and Rodriguez on March 13th. Rodriguez has testified that Ortega gave him the keys to the car at Infiesta's home and told him the heroin was under the seat.

Coming now to the defendant Hugo Viera, Rodriguez and Gonzalez both speak of a meeting at the Alamac Bar, but they differ as to whether the sale of heroin was discussed at that time. Gonzalez says that subsequently a sale of one kilo for $20,000 was made to this defendant who paid for it in two installments, although Gonzalez said he had trouble collecting the money. In addition, there is testimony that this defendant told Rodriguez that Alvarez wanted to buy heroin and that several deliveries of heroin for other

5pgd

people were made at Viera's home.

Rodriguez has also testified that Alvarez told him that Alvarez' first purchase had been given to Viera.

Finally, Rodriguez says that Viera told him that he was tired of the fact that Gonzalez didn't trust him.

The testimony as to Jose Aguilera's possible involvement is that Ortega told him in Miami to come to New York to purchase heroin, that he wanted a half kilo, and that Aguilera told Rodriguez, who drove him back to New York from Rankin Street, that Ortega had sold him a half kilo.

Coming to the last defendant on trial here, Hector Echevarria, the government claims that he is a member of the conspiracy because of the testimony that he sought out the source from which to purchase the heroin, that he purchased a half kilo, that defendant Cifre had agreed to guarantee part-payment of the purchase price because Cifre and Echevarria had done narcotics business together before, and that Echevarria even introduced a potential customer to Rodriguez.

Defendants' contentions have been made perfectly clear by the summations of counsel. Simply stated, they are that you could not believe anything that Rodriguez and Gonzalez have testified to from the witness stand.

They point to the fact that each of these

6pgd

witnesses admitted that they hope that cooperation with the government in testifying in this case will be brought to the attention of the authorities. Rodriguez' application for a reduction of his ten-year sentence has been denied. Gonzalez' original sentence of ten years has been reduced to six years. The only road now open for a reduction of sentence for these two witnesses is by way of presidential clemency. As far as Arenas is concerned, he is awaiting sentence after being found guilty by a jury of narcotics violation. He also intends to plead guilty to a narcotics charge that does not call for a mandatory sentence.

Defendants point to the prior criminal records of these witnesses as evidence of their lack of credibility. Rodriguez is serving a ten-year sentence for violating the narcotics laws. In addition, he has admitted that he has engaged in stealing automobiles, running a numbers game, and various other illegal activities.

Gonzalez has been convicted of violating the federal firearms laws for which he has not as yet been sentenced because he was a fugitive, and he is presently serving a sentence of six years for violation of the narcotic laws.

Defendant Echevarria has produced three witnesses, two of whom have testified to alleged attempts by Rodriguez

and Gonzalez to have them testify falsely regarding narcotic transactions as a means to avoid punishment for their alleged crimes.

The third has testified that he was merely advised to cooperate with the government. The first two also testified that Gonzalez and Rodriguez stated that they were giving false information to the agents regarding the case here on trial.

Defense counsel further point to the inconsistencies in the stories of Gonzalez and Rodriguez to show that a conspiracy never existed and that their respective clients could not have committed the substantive crimes which we will discuss in a moment. Let us take some of the examples which they have brought to your attention.

1. In the case of Otero, Gonzalez says he made a sale to this defendant of one kilo for $17,000 while Rodriguez says he delivered one and a half kilos.

2. In the case of Del Cristo, Rodriguez says he never made a sale or delivery to this defendant, although he did collect some money which he turned over to Gonzalez in payment for some heroin. Gonzalez says that he made two sales of one-half kilo each to Del Cristo which were delivered by Rodriguez.

3. In the case of Alvarez, Rodriguez says that

8pgd

Gonzalez was in New York when he called this defendant in Miami demanding payment for previously delivered heroin. During this call, Alvarez is supposed to have told Gonzalez that he could get the money at Viera's apartment to which Gonzalez sent Rodriguez.

Gonzalez does not indicate that there were any problems in being paid for the first kilo. He has testified that Alvarez paid for it at the home of Gonzalez' aunt.

4. In the case of Viera, Rodriguez claims that there was no discussion of narcotics at the first meeting in the Alamac Bar, and that he never delivered heroin directly to Viera. Gonzalez says they made the deal for the sale of one kilo of heroin to Alvarez at that time at the Alamac Bar. He further states that in another transaction Rodriguez had delivered a kilo to Viera as a result of a telephone call from Alvarez' home in Miami.

5. In the case of Aguilera, Rodriguez says that one day he, Aguilera, Gonzalez, and Ortega, met at the 005 Bar. Later that day, Rodriguez says he drove alone to Elizabeth, New Jersey, where he met Ortega and Aguilera and drove Aguilera home to New York. Gonzalez says the meeting took place at his aunt's house and that Ortega, Rodriguez, and Aguilera left together from there to go to New Jersey.

6. In the case of Echevarria, Rodriguez says

that on March 16th or 17th he arranged to sell and did deliver one-half kilo of heroin to this defendant at the latter's supermarket at 184th Street and Audubon Avenue. Gonzalez says delivery was made the very same night after the sale to the undercover agents on March 13th.

7. As a final example, defendants claim that Gonzalez never could have seen Mrs. Calana at her home on the morning of March 12th or any other morning because the latest she ever reported in for work was 7:00 a.m. during the period in question.

I have tried very briefly to give you the contentions of the government and defendants in this case with regard to the charges contained in Count 1 of this indictment. Obviously I cannot review all of the evidence in this case, and my failure to mention any particular fact or set of facts does not mean that it is not to be considered by you in determining the guilt or innocence of each of the defendants. The evidence is fresh in your minds and you have listened attentivaly to the final pleas of counsel summarizing the evidence in support of their contentions.

If any reference by me to matters of evidence does not coincide with your recollection of the evidence, it is your recollection and not mine that is to control.

We turn now to the remaining nine counts of the

10pgd

indictment which you will have to consider. These are known as the substantive counts of the indictment and allege separate violations of Section 174 of the Federal Narcotics Act. Each of the counts which you will consider charges that on or about the dates alleged in the particular count the defendant named in that count unlawfully, knowingly and willfully did receive or conceal, or buy, or sell, or facilitate the transportation or concealment or sale of a certain amount of heroin, which heroin had been illegally imported into the United States knowing the same to have been imported into the United States contrary to law.

The first count as made more specific by the proof which you will consider is Count 2. It charges the defendants Raul Ortega and Ciro Rodriguez-Calana with facilitating the transportation of 20 kilograms of heroin on or about March 12, 1970. This refers to the incident when the 20 kilos were alleged to have been brought from Elizabeth, New Jersey to Arenas's apartment.

Count 3 of the indictment charges defendants Raul Ortega and Jorge Infiesta with violation of the law in the sale of one kilogram of heroin by Ortega to Infiesta between March 12th and March 14th, 1970.

Count 4 charges defendant Hector Echevarria with the purchase of one-half kilogram of heroin between March 14th

and March 23rd.

Count 5 charges defendant Charles Busigo-Cifre with two purchases of one-half kilogram each of heroin, the first between March 14th and March 23rd, and the second between late March and early April.

Count 6 charges defendant Domingo Del Cristo with two purchases of heroin, one-half kilo each, the first between March 21st and March 23rd, and the second in late March to early April.

The next count which you will consider is Count 8 which charges defendant Armando Alvarez with purchasing six kilograms of heroin in four different transactions. The first is alleged to have taken place between March 14th to March 23rd, and the other three in late March to early April.

The next count is Count 11 which charges that defendant Cirillo Figueroa purchased six and one-half kilos in six different transactions, the first two between March 14th and March 23rd, 1970, and a third in the second half of March, the fourth during late March and the last two in late March or early April.

Count 14 charges the defendant Jose Otero with the purchase of one kilogram of heroin in late March or early April.

Finally, the last count which you must consider is Count 17 which charges defendant Jose Aguilera with the transportation of one-half kilogram of heroin in late March or early April.

In order for you to find a defendant guilty of any of the charges contained in these counts, you must be convinced as to each defendant and as to each count separately that the following elements have been proved beyond a reasonable doubt:

First, that on or about the dates alleged in each count the defendants named therein willfully and knowingly either bought or sold, or in any manner facilitated the transportation or sale of heroin.

Second, that the substance referred to in each of these counts is a narcotic drug, specifically that it is heroin.

Third, that the heroin was illegally imported into the United States.

Fourth, that the defendant named in the particular count you are considering knew that the heroin involved in that count had been illegally imported into the United States.

As far as the first element is concerned, you must find that the defendant knowingly and willfully either bought

13pgd

or sold or facilitated the transportation of heroin on the dates in question. The term "facilitate" is used in its ordinary sense. "Facilitate" means to make easy or less difficult, to aid or assist in furthering or advancing in a meaningful way one or more of the acts prohibited by law. The government is not required to prove that a defendant committed each of these prohibited acts. If you are convinced beyond a reasonable doubt that a defendant named in a particular count knowingly and willfully did any one of these prohibited acts, that is sufficient to satisfy the government's burden as to this first element.

What I said previously about the words "knowingly and willfully" in discussing the conspiracy count applies equally as well here.

Under the second element you must find beyond a reasonable doubt that the substance referred to in each of the nine substantive counts which you will consider is in fact heroin. Now, as far as each of these counts is concerned the government did not produce the heroin which it claims was transferred. However, just as with any other component of the crime, the existence of and dealing with narcotics may be proved by circumstantial evidence. There need be no sample placed before the jury, nor need there be testimony by chemists as long as the evidence furnishes ground for

14pgd

inferring that the material in question was heroin. On this point the government relies on the testimony of Rodriguez, Gonzalez, and Arenas that the substance with which they were dealing in these substantive counts was heroin.

In addition, you may consider the following circumstantial evidence in determining whether the substances referred to were in fact heroin: first, the secrecy and deviousness with which the alleged transactions were handled; second, the fact that the substance which the government's witnesses claim each defendant was dealing in was a white powder; third, the high prices the government contends were paid in cash for the substance; fourth, the alleged lack of complaint on the part of the purchasers of the substance in each count; and fifth, Rodriguez' testimony that at the cutting sessions masks were worn to prevent the participants from getting intoxicated from the heroin.

In addition, you may consider the testimony offered by the government as to the two kilogram quantity of heroin which it claims had been sold to federal undercover agents Tumillo and Angioletti by Rodriguez, Gonzalez and Prada from the shipment we are discussing. The government's chemist has testified that the substance contained in Exhibits 13 and 13D amounting to one kilo was 91 percent heroin and in Exhibits 14 and 14D amounting to one kilo was

80 percent heroin.

The third and fourth elements that the government must prove beyond a reasonable doubt are that the heroin involved in each count was illegally imported and that each defendant knew that it was illegally imported. In connection with my charge on the conspiracy count I told you that in order to find a defendant guilty on that count the government must prove that he knew that the heroin which was the object of that conspiracy was illegally imported. I also told you that I would discuss that element more fully in connection with the substantive counts. What I say here you will consider in connection with determining the guilt or innocence of a defendant under the conspiracy count as well as under the substantive counts.

The government has not offered direct evidence concerning the defendant's knowledge of illegal importation. In order to meet its burden on these elements, the government relies upon a law which permits a jury, whenever it finds that a person had knowing possession of heroin, to draw an inference that the heroin was illegally imported, and further that the person shown to be in possession knew that the heroin was illegally imported.

If the government demonstrates beyohd a reasonable doubt that a defendant had possession of what is in fact

16pgd

heroin and there is no satisfactory explanation of this possession, you may infer, if you wish, that the heroin was illegally imported and that the defendant knew it was illegally imported.

As far as the basis for this inference is concerned, you should be informed that the United States Congress has determined that all of the heroin in this country is illegally imported. This finding is based on official studies showing, first, that no heroin is produced in the United States, and, second, that it is illegal to import either heroin or any product that heroin might be derived from.

From these facts it is therefore reasonable to infer that any heroin found here has been illegally imported. And it also is reasonable and rational to infer that anyone who has unexplained possession of, and deals in any quantity of, heroin would probably know of its source, or, at least he would know it was smuggled here from some place outside of the United States, unless he deliberately closed his eyes to the obvious.

While these findings furnish the basis upon which you may draw the inferences flowing from the possession of heroin, I repeat that these findings are not binding upon you nor are you compelled to draw the inferences once pos-

session is proved beyond a reasonable doubt.

Whether or not you draw the inferences to establish the elements of illegal importation and the defendant's knowledge thereof is up to you, based upon your own knowledge, common sense, and experience.

To draw this inference it is not required, however, that the government show that a defendant personally handled or touched the heroin. The law also provides that the inferences may be drawn if a defendant is shown to have had constructive possession of the heroin.

A defendant may be found to have constructive possession of heroin if you are convinced beyond a reasonable doubt that the heroin was in the possession of another person and that the defendant had the power to exercise control over that other person and the heroin and could control the heroin's movement or distribution. Thus, a defendant may be found to have constructive possession if you find that he had the power to set the price for a batch of heroin, or had the final say as to the means of transfer of heroin, or was able to assure delivery of heroin to a customer.

Cifre is the only defendant whose possession is claimed to be solely that of constructive possession. Some of the other defendants are charged with actual and constructive possession while others are charged solely with

18pgd

actual possession.

If a particular count embraces more than one transaction, you must be convinced beyond a reasonable doubt that the preceding four elements have been satisfied as to each of the transactions which make up that count. For example, Count 5 charges the defendant Cifre with purchasing a half kilo of heroin on two different occasions for a total of one kilogram. In order to find this defendant guilty of the charge in Count 5, you must find that as to each of these two one-half kilo purchases the preceding four elements have been proved beyond a reasonable doubt. If you find that only one transaction was proved, then you should acquit the defendant on that count.

Similarly, Del Cristo is charged with two separate purchases of one-half kilo each; Alvarez with four purchases totalling six kilos; Figueroa with six purchases totalling six and a half kilos; the defendants Otero, Aguilera, and Echevarria are charged with one purchase each.

In determining the guilt or innocence of a defendant you must decide that question solely from the evidence you heard from the stand and the exhibits that have been placed before you.

The summations of counsel which you have heard are not to be considered as evidence but only as arguments to

19pgd

you as to what counsel feel you should find from the evidence.

In determining the issues in this case it is your recollection of the testimony that is to control and not that of counsel or of the Court.

There are, generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of the case. One is direct evidence, such as the testimony of an eyewitness. The other is indirect or circumstantial evidence, which is the proof of a chain of circumstances pointing to the existence or non-existence of certain facts.

Circumstantial evidence is the proof of facts from which you may reasonably infer a material element of the crime.

fol

(Continued on next page.)

#11

ga

ge

pgjw 1

Let us take one simple example to illustrate what is meant by circumstantial evidence. We will assume that when you entered the courthouse this morning the sun was shining brightly outside and it was a clear day. There was no rain. Now assume that in this courtroom the blinds are drawn and the drapes are drawn so that you cannot look outside. Assume as you are sitting in this jury box, and despite the fact that it was dry when you entered the building, someone walks in with an umbrella dripping water followed in a short time by a man wearing a raincoat which is wet. If I ask you whether it is raining now you cannot say that you know it directly of your own observation. But certainly upon the combination of facts which I have stated to you, even though when you entered the building it was not raining outside, it would be reasonable and logical for you to conclude that it is raining now. That's about all there is to circumstantial evidence.

You may draw such inferences as reason and common sense lead you to draw from facts which you find to have been proven. Great care must be exercised when drawing inferences from circumstances proved in criminal cases and mere suspicions will not warrant a conviction.

However, no greater degree of certainty is

pgjw 2

required of circumstantial evidence than is required of direct evidence. It is not on any different or lower plane than direct evidence. The law simply requires that in either case you must be convinced beyond a reasonable doubt of the guilt of a defendant.

If, during the course of the trial, the Court sustained an objection by one counsel to a question asked by the examining counsel, you are to disregard the question and any alleged facts contained in the question and you may not speculate as to what the answer would have been.

If a question was asked and an answer given by the witness and I have then stricken the answer from the record, you are to disregard both the question and the answer in your deliberations.

In your search for the truth you must use plain everyday common sense. You must not be governed by sympathy, bias, or prejudice. You have seen the witnesses on the stand and observed their manner of giving testimony. When I refer to the witnesses, I, of course, include Mrs. Calana who has testified. How did the witnesses impress you? Did they appear to be testifying frankly, candidly, and fairly?

In determining what degree of credit you

pgjw 3

should give a witness' testimony, you may consider his conduct, his manner of testifying, and his interest in the outcome of the trial. You should also consider his relationship to the government or the defendant, his bias or impartiality, and any motive he may have to testify falsely. It does not necessarily follow, of course, that because a person is interested in a result he is incapable of telling a truthful version of an occurrence.

The defendant Mrs. Calana has testified in this case. A defendant who wishes to testify is a competent witness and her testimony is to be judged in the same way as that of any other witness.

You have heard the testimony of Miguel Rodriguez, Ramiro Gonzalez, Manuel Noa, Roberto Arenas and Orlando Gil, who are each alleged to be co-conspirators of the defendants on trial. The testimony of alleged accomplices should be received with great caution and scrutinized with care. This does not mean that such testimony, if believed by you, is of any different or lesser quality than any other evidence.

It should be considered by you after giving it whatever weight you think it deserves along with all the other evidence in the case in determining whether

pgjw 4

the guilt of a defendant has been proved beyond a reasonable doubt. You may find a verdict of guilty solely on the uncorroborated testimony of an accomplice if you believe that testimony beyond a reasonable doubt.

If you believe that a witness wilfully testified falsely to any material fact, you may disregard his testimony altogether or you may accept that part of his testimony which you believe worthy of credence. What you accept or reject as credible evidence is for you to determine but you may not go outside the evidence to speculate as to the facts.

The quality of the testimony of the particular witnesses, regardless of who calls them, rather than the quantity of witnesses is the test to be used in arriving at your decision. There is no presumption that the witnesses for the government are more or less truthful or credible than the witnesses for the defendant.

Evidence that a witness has been convicted of a crime may only be considered by you in assessing his credibility as a witness and the weight you will give to his testimony.

You should consider a witness' entire testimony: His direct examination, his cross-examination, and his redirect examination. You should consider the

pgjw 5

strength or weakness of his recollection in the light of all the testimony and attendant circumstances in the case.

Inconsistencies or discrepancies in the testimony of a witness or between the testimony of different witnesses may or may not cause you to discredit such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently. Innocent misrecollection, like failure of recollection, is not an unusual experience. In weighing the effect of a discrepancy consider whether it pertains to a matter of importance or to an unimportant detail and whether the discrepancy results from innocent error or wilful falsehood.

You will recall that Rodriguez and Gonzalez were asked about statements which they made prior to trial and which it is claimed appear to be inconsistent with their testimony at this trial.

As you have found out during the course of the trial, much of this material was contained in reports made by the agents during the course of their investigation of the crimes charged here. In addition, there was the recitation of events which Rodriguez dictated to Gomez in jail. None of this material was made under oath by either Rodriguez or Gonzalez.

pgjw 6

Insofar as this material is concerned, if the witness affirmed under oath here the truth of a prior statement, such statement may be considered by you both as affirmative proof of the facts contained in the statement and as bearing on the credibility of the witness.

If a witness admits that a prior statement was made by him but denies its truth from the witness stand, then you may consider that fact as bearing on the credibility of the witness.

If a witness has denied making a prior statement or cannot recall having made such a statement, then you may not consider it for any purpose. You must disregard the alleged statement completely.

Some question has been raised about the failure to call witnesses to testify on this trial. I point out to you that these persons are not under the control of either the government or the defendants. Either side could have subpoenaed any of them to appear as a witness if they were available. Therefore, as to those available to testify, you are free to draw whatever inference you wish as to the failure of either party to call such witnesses or you need not draw any inference at all.

Obviously the defendants who have not as yet been arrested are not available to either side and you

pgjw 7

may not speculate as to what their testimony might have been. You should utterly disregard their possible testimony in this case.

However, as I pointed out above, the defendant need not offer any proof to sustain his innocence and the burden is on the government to prove its case beyond a reasonable doubt.

There is no presumption against the government from its failure to call a witness if you find that his testimony would merely be cumulative or repetitious and of no greater value than witnesses who have testified on the trial.

You have heard testimony that exculpatory statements were allegedly made by the defendant Domingo Del Cristo when he was questioned by Miss Neiman in October of 1973 prior to his arraignment. At that time he stated that he was in the hospital during the relevant period of the charges you are considering. You have also heard testimony that the defendant Raul Ortega made exculpatory statements to a federal agent in 1971 to the effect that he had not been in New York for two years.

And exculpatory statement is one in which a person seeks to exonerate himself of having committed a crime. If you find that these statements were made and

were false and that they were made with the intention of diverting suspicion or misleading the agents, then you may consider these statements as indicating consciousness of guilt on the part of the defendant.

You will recall that certain evidence was admitted solely against a particular defendant. This means that you may consider such evidence only in determining the guilt or innocence of that defendant and no other defendant.

The exculpatory statements which I have just referred to were admitted solely against the declarants, defendants Del Cristo and Ortega respectively. The only other evidence limited to an individual defendant refers to the defendant Mrs. Calana. The evidence regarding her sister's telephone number and her son's school record were admitted solely on the question of her credibility.

You may call for any exhibits which you desire to see in conjunction with your deliberations. You may call for a reading of any portion of the official transcript of the evidence or any portion of this charge.

You are instructed that the question of possible punishment of a defendant in the event of conviction is no concern of the jury and should not, in any sense, enter into or influence your deliberations.

pgjw 9

The duty of imposing sentence in the event of conviction rests exclusively upon the Court. The function of the jury is to weigh the evidence in the case and determine the guilt or innocence of a defendant solely upon the basis of such evidence.

I have sought to avoid any comments which might suggest that I have personal views on the evidence or that I have any opinion as to the guilt or innocence of any of the defendants. You are not to assume that I have any such views or opinion. This charge is given to you solely to instruct you as to the law applicable to this case.

The actions of the judge during the trial in granting or denying motions or ruling on objections by counsel, or in statements to counsel, or in attempting to clearly set forth the law in these instructions, are not to be taken by you as any indication of any determination of the issues of fact. These matters, the actions of the Court, relate to procedure and law. You, the members of the jury, determine the facts.

There are twelve members of this jury and all of you must agree upon any verdict you reach as to any defendant on any count in the indictment.

This case is obviously an important one to the

pgjw 10

defendants. It is equally important to the government. I am submitting it with complete confidence that you will comply with your oath as jurors and decide the case fairly and impartially, and without fear or favor.

I would suggest that at this point, if there are any exceptions with respect to the charge, we take them in the courtroom and excuse the jury rather than leave the jury here and go into the robing room, which is quite small.

(Jury excused)

THE COURT: Bring the jury back.

(Jury present)

THE COURT: The reason I called you back is to caution you. Please, while you sit in that jury room, do not discuss my charge or any resolution of the issues of fact until you are finally sent into the jury room. Please follow that instruction. There is to be no discussion about the case or the issues to be determined by the jury.

(Jury excused)

THE COURT: Mr. Michelman?

MR. MICHELMAN: May it please the Court, I most respectfully except to your Honor's marshaling of

pgjw 11

the evidence as being subjective and being influencial upon the jury.

May it please the Court, I most respectfully except to the charge as being generally prejudicial in favor of the prosecution and against the defendant Ortega.

I except to your Honor's failure to allow the defendant his factual defenses of double jeopardy and the failure to charge the jury with respect thereto as submitted in writing pursuant to the Court's order.

I most respectfully except to that portion of the charge wherein your Honor instructed the jury essentially that the uncorroborated testimony of an accomplice is sufficient to convict.

And I most respectfully except to that part of your Honor's charge which referred to false exculpatory statements.

THE COURT: Your objections are noted.

MS. PERLMUTTER: Your Honor, I except to your Honor's marshaling of the evidence as against the defendant Cifre and, most particularly, I refer to the fact that your Honor had said as to the transaction that $9,500 was the amount of money testified to by Gonzalez and Rodriguez, when the facts in this case are contrary to that.

In addition, you specified that there was a second sale made to Cifre through a third party while, in truth and in fact, the witness Gonzalez testified that that sale was the first sale --

THE COURT: That's true. I said that. You misunderstood what I said. I said the second sale was directly by Gonzalez. The first sale went to an unidentified person.

What is your next point?

MS. PERLMUTTER: I refer your Honor to my request number 20 which was denied --

lowed

813

THE COURT: It seems to be a verdict. Call the jury in.

(Jury in box.)

THE COURT: Mr. Jerry and ladies and gentlemen of the jury: You sent a note in which I opened and I see it must be your verdict. I have not read it. The clerk will ask you for your verdict and you may read to him from this when the inquiry is made.

He first will call the roll.

(The roll was taken.)

THE CLERK: Mr. Foreman, have you agreed upon a verdict?

THE FOREMAN: Yes.

THE CLERK: How do you find the defendant Raul Ortega as to count one?

THE FOREMAN: As to Mr. Ortega, on count one we find him guilty.

THE CLERK: As to count 2?

THE FOREMAN: Guilty.

THE CLERK: As to count 3?

THE FOREMAN: Guilty.

THE CLERK: How do you find the defendant Charles Busigo-Cifre as to count one?

THE FOREMAN: Guilty.

THE CLERK: As to count 5?

THE FOREMAN: Not guilty.

THE CLERK: Howdo you find the defendant Armando Alvarez as to count one?

THE FOREMAN: Guilty.

THE CLERK: As to count 8?

THE FOREMAN: Guilty.

THE CLERK: How do you find the defendant Jose Otero as to count one?

THE FOREMAN: Guilty on count one.

THE CLERK: As to count 14?

THE FOREMAN: Guilty.

THE CLERK: How do you find the defendant Cirillo Figueroa as to count one?

THE FORFMAN: Guilty on count one.

THE CLERK: As to count 11?

THE FOREMAN: Guilty on count 11.

THE CLERK: How do you find the defendant Jorge Inriesta as to count one?

THE FOREMAN: Count one is guilty.

THE CLERK: And count three?

THE FOREMAN: He is guilty on count three.

THE CLERK: How do you find the defendant Domingo Del Cristo as to count one?

THE FOREMAN: Count one is guilty.

THE CLERK: Count six?

THE FOREMAN: Guilty on count six.

THE CLERK: How do you find the defendant Ciro Rodriguez-Calana as to count one?

THE FOREMAN: Guilty.

THE CLERK: Count two?

THE FOREMAN: Guilty.

THE CLERK: How do you find the defendant Francisca Calana as to count one?

THE FOREMAN: Not guilty.

THE CLERK: How do you find the defendant Hugo Viera as to count one?

THE FOREMAN: Not guilty.

THE CLERK: How do you find the defendant Jose Aquilera as to count one?

THE FOREMAN: Not guilty.

THE CLERK: Count 17?

THE FOREMAN: Not guilty.

THE CLERK: How do you find the defendant Hector Echevarria as to count one?

THE FOREMAN: Not guilty.

THE CLERK: And count two?

THE FOREMAN: Not guilty.

THE CLERK: Ladies and gentlemen of the jury, please listen to your verdict as it now stands recorded.

You say you find the defendant Raul Ortega guilty as to count one, guilty as to count two, and guilty as to count three.

You also find the defendant Charles Busigo-Cifre guilty as to count one, and not guilty as to count five.

You further say that Armando Alvarez is found guilty on count one and guilty on count eight.

You further say that Jose Otero is guilty on count one and guilty on count 14.

You further find that Cirillo Figueroa is guilty on count one, and guilty on count 11.

You also find the defendant Jorge Infiesta guilty on count one and guilty on count three.

You further find the defendant Domingo Del Cristo guilty on count one and guilty on count six.

You also find the defendant Ciro Podriguez-Calana guilty on count one, and guilty on count two.

You further find the defendant Francisca Calana not guilty on count one.

You also find the defendant Hugo Viera not guilty on count one.

You also find the defendant Jose Aquilera not

guilty on count one and not guilty on count 17.

You further find the defendant Hector Echevarria not guilty on count one, and not guilty on count four.

So say you all?

(The jury nodded affirmatively.)

THE COURT: I gather the attorneys for the defendants who have been found guilty will want the jury polled?

MR. MICHELMAN: Yes, your Honor.

MR. FRANKEL: I particularly would like the jury polled as to four separate transactions, your Honor.

THE COURT: I will not so poll them. They were told they had to find them all.

MR. FRANKEL: I was going to ask your Honor to poll them as to whether they found each one.

THE COURT: I will not so poll them. The instruction was clear.

(The jury was polled as to each defendant, individually, and responded, individually, in the affirmative.)

THE COUPT: Mr. Jerry and ladies and gentlemen of the jury: Today marks the end of the four weeks that you have been engaged in the trial of this case. You have given very careful attention to the evidence and you obviously have weighed the evidence very carefully against each individual defendant, as the Court directed you should do in the

AFFIDAVIT OF PERSONAL SERVICE

STATE OF NEW YORK,
COUNTY OF RICHMOND ss.:

EDWARD BAILEY being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. 10302. That on the day of , 19 at No. 11 July deponent served the within Foley Square, N.Y.C. Appendix upon the U.S. Atty. for Southern Dist. of N.Y. herein by delivering a true copy thereof to h personally. Deponent knew the person so served to be the person mentioned and described in said papers as the therein.

Appellee

Sworn to before me,
this day of 19

11 July 74

Edward Bailey

WILLIAM BAILEY
Notary Public, State of New York
No. 43-0132945
Qualified in Richmond County
Commission Expires March 30, 1975